ADDENDA AND CORRIGENDA

Reference	*Correction*
p. 8: see 2: line 2	*For* "It is an opinion . .. may not be." *readmit* is an opinion based on sound arguments which a prudent man accepts while conscious of the force of the arguments against this opinion."
p. 12: sec 4: line 1	*For* "true" *read* "authentic"
p. 12: sec 4: n. 2	*For* "The customary interpretation . . . force of law." *read* "A custom, in itself, is merely directive but it may become a custom in law and then it has the force of law."
p. 13: sec 5: n. 4: line 1	*For* "Several laws . . . same act" *read* "Several laws or precepts can be fulfilled by one and the same act."
p. 13: sec 5: n. 5: line 1	*For* "the obligation ceases" *read* "the obligation usually ceases"
p. 17: (c) : line 7	*For* "he can dispense" *read* "he can dispense in particular cases"
p. 18: sec 9: line 2	*For* "unless a clause permitting the continuance . . . added" *read* "if given *ad beneplacitum nostrum* or equivalently"
p 19: sec i : n. 1 : line 2	*For* "Actual sin is a sin committed" *read* "Actual sin is an act or omission against the law of God"
p. 19: sec 2: n. 3: line 2	*Delete* "as extravagance"
p. 19: sec 2: n. 4: line 1	*For* "law" *read* "matter"
p. 20: sec 3: n. 2: line 3	*For* "if a slight obligation is despised" *read* "if a slight obligation is unfulfilled out of serious contempt;"
p. 20: sec 5: n. 3: (c): line 6	*Fcr* "so that only one sin was committed." *read* "so that only one sin, but more grievous, was committed."
p. 26: sec 2 : n. 1 : (a) : line 3	*Delete* "or of individuals to communities or vice versa."
p. 28: line 2	*For* "moral virtues, whose motive . . . virtue." *read* " moral virtues, which relate immediately to some created good."
p. 29: sec 4: n. 3: line 1	*For* "Formal heresy, . . . or wilful doubt about," *read* "Formal heresy, that is, the act of a baptized person who, whilst retaining the name of Christian, deliberately and contumaciously denies, or wilfully doubts about,"
p. 34: n. 6: line 1	*For* "we may sacrifice" *read* "we may risk"
p. 43: sec 4: n. 4: line 2	*For* "Religious vows ... if the mistake was substantial" *read* "religious vows are invalidated only if the mistake affects the substance."
p. 55: sec 3: n. 2: line 5	*Add* "unless the fact of his death has been otherwise established."
p. 71: sec 3: n. 2 (a)	*For* " that is deliberate" *read* " that is directly willed"

Referemt	*Correction*
p. 115: sec 4: n. i : line 3	*For* "Calumny is a statement" *read* "Calumny is a defamatory statement"
p. 118: line 2	*For* "a third innocent person" *read* "an innocent third party"
p. 122: n. 6: line 1	*For* "the quality of the food" *read* "the quality and quantity of the food"
p. 122: sec 2: n. i : line 5	*For* "is dispensed" *read* "ceases"
p. 123: sec 4: n. 5	*For* "An ordinary' confessor . . . such cases" *read* "An ordinary confessor cannot dispense his penitents from the law of fasting unless he is given special faculties to do so."
p. 127: n. 4: Hne 1	*For* "reproduced" *read* "printed"
p. 163: (k): line 2	*For* "A serious sin . . . against the vow." *read* "The matter sufficient for a serious sin of theft would normally be sufficient for a serious sin against the vow."
p. 183: n. 7: line 4:	*For* "there is an obligation of charity" *read* "there is at least an obligation in charity and possibly one in legal justice. . .
p. 191: line 13	*For* "parish pries" *read* "parish priest"
p. 201 : sec 2: (i)	*For* "Christ" *read* "the Church"
p. 214: n. 3: line 1	*For* "The conditions . . *read* "The principal conditions"
p. 223: sec 3: n. 2: lines 2, 3	*For* "if he prudendy thinks it necessary owing to scarcity of priests, or if, on a Sunday . . ." *read* "if he prudently thinks it necessary for the reason that, due to a shortage of priests, on a Sunday ..."
p. 231 : n. 4: line 2	*For* "Masses" *read* "Mass"
p. 231: n. 5: line 7	*Delete* "not"
p. 258: n. 5: line 5	*Far* "The obligation is personal not local" *read* "The obligation is personal and, in some degree, local"
p. 316: sec 4: n. 3	*Delete the whole of n.* 3
p. 320: Elucidation n. 3	*For* "The absolution is probably valid if given in good faith" *read* "The absolution is not valid even if given in good faith"
P· 335 : sec 2: n. 2: line 1	*For* "expressed" *read* "imposed"
p. 341 : Ch. VI: n. 1 : line 2	*For* "When a censure is reserved" *read* "When a censure barring the reception of the Sacraments is reserved"
	DiWz "this"
p. 362 : sec 3 : line i	*For* "Suspension, if a censure . . . urgent cases, when" *read* "Suspension, if a censure, can be absolved. If it is a vindicatory penalty it can be dispensed, or, in occult cases, the obligation of observing the penalty can be suspended, when"
p. 388 : sec 2 : n. 1 : line 1	*For* "the several Orders" *read* "for the several Sacred Orders"
P· 413: sec 2: n. 4	*Add* "it can also be occult by nature but public in fact"

ADDENDA AND CORRIGENDA

Reftfence	*Correction*
p« 441 : n. 3: line 8	*For* "Ordinary" *read* "proper Ordinary"
P· 441 : n. 3: lines 12-14	*For* "Ordinary" *read* "Bishop"
P· 449: sec 6; n. 2: line G	*For* "of the bride" *read* "of one of the contracting parties"
p. 449: Ch. XXV: n. 2: line 4	*To* "and not during close time" *add* "except with the permission of the Ordinary"
P· 45« : Ch. XXVIII : n. 1: lines	*For* "Such marriages . . . to do so" *read* "Such marriages are only permitted for very grave and urgent reasons. Bishops can permit them but not Vicars General unless they have a special mandate"
P· 455 : sec 4 : n. 1 : line 1	*For* "i.e." *read* "e.g."
p. 456: n. 2: line 1	*Delete* "There are two exceptions to this rule."
P· 456: End of n. 3	*For* "a Bishop and priest . . . danger of death" *read* "Local Ordinaries and priests also act with ordinary power in certain urgent cases."
P- 456: n. 4: line 3	*For* "rescript" *read* "dispensation"
p. 466: sec 2: n. 4: line 3	*For* "their good faith need not be disturbed" *read* "their conduct is lawful"
p· 472 : Appendix 1 : line 3	*Delete* "The Rota does not . . . a nullity decree."

THE EUCHARISTIC FAST

In January 1953 the Holy Father made certain relaxations in the rule of fasting before Holy Communion.

On one point the Holy Father changed the law—to drink ordinary water does not now break the Eucharistic fast.

Below are listed die relaxations but it should be borne in mind that they are in the nature of cxcepdons and the spirit of the old law is to be maintained in so far as possible.

A. THE SICK

Under diis heading are included not only those confined to bed, but all who find themselves genuinely indisposed and unable to keep the Eucharistic fast without real inconvenience.

They may take, any time up to Holy Communion (up to Mass for priests),

(a) their medicine whether liquid or solid,

(5) liquid nourishment provided that it is not alcoholic.

Non-priests must ask the advice of a confessor before using the dispensation. The advice may be asked outside the confessional.

Priests do not need such advice.

B. SPECIAL CIRCUMSTANCES.

In certain cases, when to keep the fast would entail real hardship, non-alcoholic drinks may be taken up to one hour before receiving Holy Communion (before Mass for priests).

ADDENDA AND CORRIGENDA

The cases for NON-PRIESTS are:

1. Fatiguing work before Holy Communion.

those who work the night-shifts m factories or workshops, m transpo P iieading. Expectant mothers and those who dXS‘‘ark for a loo? rime before Holy Communion and all ocher, in a similar position to the latter can avail themselves of this dispensation.

2 The late hour of receiving Holy Communion.

This may be regarded as a relatively late hour. The dispensation is designed to help those who after receiving Holy Communion, cannot return home for breakfast but mSt go to their place of daily business. School children are expressly mentioned. Those who wish to receive Holy Communion at a Nuptial Mass or with members of a Confraternity for whom Mass is celebrated at a later hour, may avail themselves of this dispensation.

3. Long distance from Church.

The official instruction states that about | j miles is to be regarded as a long distance from Church for pedestrians. The distance will be proportionately longer for those who travel by bicycle or other means of transport. Allowance should be made for age, infirmity, road and travel conditions.

All the above need the advice of a confessor before using the dispensation.

For PRIESTS.

1. Tiring work (labor gravis) in the sacred ministry before Mass.

The instruction says “from early morning or for a long time”. It can apply to confessors, those who take out Communions before Mass, etc.

2. Mass after a long journey.

The conditions are as above for non-priests.

3. Late hour of Mass.

The instruction states that nine o’clock or after is to be regarded as a late hour. If the priest has to say more than one Mass and one of these Masses is at nine o’clock or after, he may take a drink provided that he does not drink during the hour immediately preceding each Mass.

He cannot use the dispensation if he rises late out of mere laziness.

Priests do not need the advice of a confessor.

EVENING MASS

On those days on which Evening Masses are permitted the rules for fasting are as jouows:

1. No solid food may be taken during the three hours immediately preceding Holy Communion (or Mass in the case of priests).
2. Non-alcoholic drink, may be taken up to one hour before Holy Communion (or
3. Alcoholic drink, but NOT SPIRITS may be taken with meal,.

PASCHAL VIGIL

"alight, the fast i, to be kept from midnight.

If the X igil Mass starts before midnight the rules es given above for Evening Mass are to be followed.

Priests who celebrate the Vigil Mars Sunday. r ^d^ght may also celebrate on the from| midnight *·Y· The day i, reckoned

The faithful fulfil the Sunday obligation if the VH Maw ωπ, at or after midnight.

hY · Af*
Γ'·. .

1IEYTHROP SERIES

MORAL AND PASTORAL THEOLOGY

A SUMMARY

BY

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CHIPPING NORTON
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PREFACE

The author of this Summary of Moral and Pastoral Theology hopes that it may prove of some service to priests in their pastoral work. It is chiefly for them that it is meant; it is not meant for beginners, for no one can learn a science from a summary. Those who have finished their course in theology often find that they want to refresh their memory of some forgotten matter, and are deterred from referring to the Latin text-books with their lengthy treatises. They may find a summary convenient for reference.

This Summary perhaps does not deserve the name of summary, for it is somewhat extended. Yet the field is so large, that it seemed better to err on the side of completeness than of brevity, and to aim at the mean between full treatises and a bald statement of detached propositions.

In this Summary there are very few references to standard works on the subject, for the overloading of a page with footnotes and references is very distracting to the reader, and the priest who has completed his course of theology does not want to be reminded of individual authorities, nor how many of them subscribe to statements made in the text, but wants to know the common teaching on a definite point, and differences of opinion, where there are such. This absence of references does not mean, of course, that authors have not been consulted, or that they may be disregarded. Indeed, it will be all to the good, if the reader will refer back to the authors to implement what is here stated in summary.

The author expresses his very sincere thanks to Fr. John Diamond, S.J., for many valuable suggestions.

Heythrop College
June 1951

Henry Davis, S.J.

CONTENTS

		PACK
Preface	.....	v
Introduction	The Scope and Subject of Moral Theology	xxxi
Section 1.	The Scope of Moral Theology .	xxxi
Section 2.	The Subject of Moral Theology.	xxxi

TREATISE I

HUMAN ACTS

Chapter I.	The Human Act and Its Obstacles	1
Section 1.	The Essentials of the Human Act	1
Section 2.	The Obstacles to the Human Act	1
	1. Ignorance — — — — —	1
	2. Concupiscence or Passion	2
	3. Fear	2
	4. Force — — — — — —	2
	Note. The Permanent Obstacles to the Free Human Act — — — — —	3
Chapter II.	The Effects of Human Acts	3
Applications	. . . . .	4
Chapter III.	The Moral Act and Its Determinants	4
Section 1.	The Morally Good Act	4
Section 2.	The Determinants of the Moral Act .	5
Section 3.	The Object — — — — —	5
Section 4.	The Circumstances — — — —	5
Section 5.	The Purpose in View or Motive	6
Section 6.	Indifferent Acts — — — —	6

TREATISE II

CONSCIENCE

Chapter I.	Nature and Kinds of Conscience	7
Chapter II.	Systems of Moral Action . — — —	8
Section 1.	Need of a System .	8
Section 2.	Probabilism — — — — — —	8
Section 3.	Equiprobabilism .	8
Section 4.	Probabiliorism .	9
Section 5.	Compensationism .	9
Application of Each System	— — — — — —	9
Section 6.	Probabilism in Practice .	9

CONTENTS

TREATISE HI

LAW

		FAOB
Chapter I.	Law in General	11
CV LAWXX I.	Nature and Character of Law	11
Section 2.	Kinds of Law	II
	i. Divine Law	II
	2. Human Law	II
Section 3-	Obligation of Law	12
Section	Interpretation of Law	12
Section 5.	Fulfilment of Law	»3
No^e	Computation of Time	»3
Section 6.	Excuses from Fulfilling Law	»4
Applications		15
Note	Domicile and Quasi-Domicile	15
Section 7.	Cessation of Law	i6
Section 8.	Dispensation	ib
Section 9.	Cessation of Dispensation	i8

TREATISE IV

SIN

Chapter L	Nature and Distinction of Sins	19
Section i.	Sin in General	19
Section 2.	Theological Distinction Between Sins	19
Section 3-	Change in the Character of Sins	20
Section 4-	Specific Distinction of Sins	20
Section 5.	Numerical Distinction of Sins	20
Section 6.	Internal Sins	21
Chapter IL	The Deadly Sins	22
	1. Pride	22
	2. Covetousness	22
	3. Lust	22
	4. Gluttony and Drunkenness	22
	5. Anger	23
	6. Envy	23
	7. Sloth	24

TREATISE V

VIRTUE

Chapter I.	Kinds of Virtue	25
Section i.	Virtue, Natural and Supernatural	25
Section 2.	Virtue, Infused and Acquired	25
Chapter II.	The Cardinal Virtues	26
Section 1.	Prudence	26
Section 2.	Justice	26
Section 3.	Fortitude.	26
Section 4.	Temperance	26
Chapter III.	The Supernatural Plane of the Virtues	27

CONTENTS

TREATISE VI

THE THEOLOGICAL VIRTUES

PAOB

Chapter I. Faith — — — — — 28
Section 1. Nature and Obligation of Faith 28
Section 2. Content of Faith 28
Section 3. The Act and the Profession of Faith 28
Section 4. Sins Against Faith 29
Interdenominational Conferences 29

Chapter II. Hope — — — — — 32

Chapter III. Charity — — — — — 32
Section 1. Love of God — — — — 32
Section 2. Love of Self — — — — 33
Section 3. Love of the Neighbour 33
Section 4. External Acts of Charity . 34
1. Almsgiving 34
2. Fraternal Correction 35
Section 5. Sins Against Fraternal Love 35
1. Scandal — — — — 35
2. Cooperation in the Sin of Another 36

TREATISE VII

THE COMMANDMENTS OF GOD

Chapter I. The First Commandment
Section i. Obligations
1. Devotion
2. Adoration .
3. Prayer
Section 2. Sins Against the First Commandment
1. Sins by Excess
2. Sins by Defect
3. Superstition
4. Idolatry
5. Vain Observance
6. Magic.
Divination
8. Invocation of the Devil
9. Spiritualism
10. Hypnotism .
Tempting God
12. Sacrilege
13. Simony

Chapter II. The Second Commandment
Section The Precept
Section 2. Blasphemy, Cursing, Profanity
Section 3. Oath and Adjuration
Section Vow — — — —
Section 5. Annulment of Vow
Section 6. Dispensation of Vow
Section Commutation of Vow

CONTENTS

Chapter III.		The Third Commandment .	45
Section	i.	Hearing Mass	45
Section	2.	Resting from Servile Work.	47
Chapter IV.		The Fourth Commandment	47
Section	i.	The Precept — — — —	47
Section	2.	The Duties of Children	47
Section	3.	The Duties of Parents	48
Section	4.	The Mutual Duties of Other Relatives	48
Section	5.	Husband and Wife .	49
Section	6.	Employers and Employed	
Section	7.	Teacher and Pupil .	
Section	8.	State Authority	53
Appendix.		~'ïY·ŋ·ı unism — — — —	54
Chapter V.		The Fifth Commandment .	54
Section	1.	The Precept	55
Section	2.	Preservation of Life .	55
Section	3.	Suicide — — — — —	
Section	4.	Killing—Direct	
Section	5.	Killing—Indirect	
Section	6.	Mutilation — — — —	57
Section	7.	Duelling — — — — —	57
Section	8.	War.....	
Section	9.	Medico-Moral Problems .	
		I. Operations During Pregnancy	59
		2. Hydramnios	59
		3. Placenta Praevia .	60
		Fibromyomata	60
		Carcinoma of the Cervix Uteri	60
		6. Hyperemesis Gravidarum	60
		Eclampsia — — — —	60
		8. Anaesthesia and Twilight Sleep	61
		9. Premature Delivery	61
		10. Sterilization	63
		Euthanasia	
		12. Abortion	64
		13. Ectopics	
		Craniotomy and Feticide	66
		15. Curettage .	66
		16. Irradiation by X-rays .	67
		Human monsters	
		18. Embalming	67
		19. Pre-frontal Leukotomy or Lol tomy	68
		20. Shock Therapy	68
		21. Organic Transplantation	68
		22. Topectomy	68
		23. Narcotherapy	68
		24. Caesarean Section	70
Chapter VI.		The Sixth and Ninth Commandments	70
Section	1.	The Precepts — — — — — —	70
Section	2.	Chastity and Modesty — — — —	70
Section	3.	Impurity or Unchastity — — — —	
Section	4.	Consummated Sexual Acts Not Contrary to Generation	

CONTENTS

			FADE
Section	5.	Consummated Sexual Acts Excluding Generation	72
Section	6.	Unconsummatcd Acts Against Chastity	72
Section	7.	External Acts of Immodesty	72
		1. Classification	72
		2. The Moral Import of the Immodest Act Itself	73
		3. The Moral Import of the External Immodest Act as Determined by Motive	73
		4. The Moral Import of the External Immodest Act as Determined by the Danger of Arousing Sexual Excitement, Whether Slight or Grave	74
		5. Amplifications	75
		6. Applications	75
		a. Touches	75
		b. Kissing and Embracing	75
		c. Looks	76
		d. Conversation	77
		e. Reading	77
Appendix.		Some Sexual Perversions	78
Section	8.	Sex Education	79
		1. Papal Teaching	79
		2. The Sacred Congregation of the Holy Office	81
		3. The Hierarchy of England and Wales	81
Chapter VII.		The Seventh and Tenth Commandments	83
Section	1.	The Precepts	83
Section	2.	Justice in General	83
Section	3.	The Objects of Ownership	84
Section	4.	The Subject of Ownership	84
Section	5.	Titles to Ownership	86
		1. Occupancy	86
		2. Accession	87
		3. Prescription	87
		4. Contract	88
Chapter VIII.		Injustice	88
Section	1.	Injustice in General	88
Section	2.	Theft and Rapine	88
Section	3.	Petty Thefts and Damage	89
Section	4.	Taking not Theft	9°
		1. Extreme Necessity	9°
		2. Occult Compensation	90
Section	5.	Restitution—General Principles	91
Section	6.	The Grounds of Restitution	91
		1. The First Ground—Retention	91
		a. Possession in Good Faith	91
		b. Possession in Bad Faith	92
		c. Possession in Doubtful Faith	93
		2. The Second Ground—Unjust Damage	93
Section	7.	Reparation in Some Particular Cases	94
		1. Reparation for Spiritual Harm	94
		2. Reparation for Defamation and Dishonour	94
		3. Reparation for Physical Injury	94
		4. Reparation for Certain Sexual Injustice	95
		5. Reparation for Adultery	95
		6. Reparation for Evasion of Military Service	95

CONTENTS

		PAGE
Section 8.	7. Reparation for Evasion of Taxes	95
	8. Reparation for Abuse of Rationing	90
	Cooperation in Injustice—Positive and Negative	96
	1. By **Counsel**	96
	2. By Command	96
	3. By Consent	96
	4. By Defending the Ill Done	97
	5. By Praise	97
	6. By Participation	97
Section 9.	The Amount to be Restored	
Section io.	To Whom Restitution is To Be Made	
Section 11.	Order of Restitution	99
Section 12.	Manner of Making Restitution	99
Section 13.	Time and Place of Restitution	99
Section 14.	Causes Excusing from Restitution	too
Chapter IX-	Contracts	too
Section 1.	Kinds of Contract	too
Section 2.	Object of Contract	lot
Section 3.	Subject of Contract	IOI
Section 4.	Consent in Contracting	IOI
Section 5.	Consideration	102
Section 6.	Effects of Contract	102
Section 7.	Termination of Contract	102
Chapter X.	Some Particular Contracts	IO3
Section 1.	Promise	IO3
Section 2.	**Gift**	IO3
Section 3.	Last Will and Legacies	IO4
Section 4.	Loan for Consumption	IO4
Note on Interest		IO5
Section 5.	Sale	Io5
Note on Hire and Purchase		106
Section 6.	Auction	106
Section 7.	Loan for Use	107
Section 8.	Deposit of Chattels (Bailment)	107
Section 9.	Stakeholder	107
Section 10.	**Monopoly**	108
Section 11.	**Hiring**	109
Section 12.	Employment	109
Section 13.	Principal and Agent	110
Section 14.	Partnership	no
Section 15.	Lease	III
Section 16.	Insurance	III
Section 17.	Gaming and Wagering	112
Section 18.	Lotteries	"3
Section 19.	Futures, Options and Differences	u3
Chapter XL	The Eighth Commandment	I 14
Section 1.	The **Precept**	114
Section 2.	**Lying**	114
Section 3.	Mental Restriction	TI5
Section 4.	Detraction and Calumny	!I5
Section 5.	Rash Judgment	117
Section 6.	Contumely	117

CONTENTS

PAGE

Section 7. Violation of Secrets . 117
Section 8. Opening of Letters . 118
Section 9. Historical and Biographical Writings . 119

TREATISE VIII

CERTAIN PRECEPTS OF THE CHURCH

Chapter I. The Precepts in General 120
Chapter II. Fasting and Abstinence 121
Note. Decree of the Sacred Congregation of the Council 121
Section 1. The Law of Fasting 121
Section 2. The Days of Fasting . 122
Section 3. The Subject of the Law 122
Section 4. Dispensation from the Law 122
Section 5. Violation of the Law. 123
Section 6. Causes Which Excuse from Observance of the Law 122
Section 7. The Law of Abstinence 124
Section 8. The Days of Abstinence in England and Wales . 124
Section 9. Dispensation from the Law 125
Section 10. Violation of the Law. 125
Section 11. Persons Excused from Observance of the Law . 125
Practical Applications 125
Chapter III. The Censorship of Books . 126
Section 1. Reasons for Censorship . . 126
Section 2. The Present Law 126
Section 3. Permission for Publication 127
Section 4. Special Rules Affecting Both Clerics and Religious 127
Section 5. Permission for Certain Classes of Books . . 127
Section 6. Diocesan Censors . . 128
Chapter IV. Prohibition of Books 129
Section 1. The Author of the Prohibition . 129
Section 2 Denunciation of Books 129
Section 3. Effects of Prohibition 130
Section 4. Particular Forbidden Books 130
Section 5. Exemption and Dispensation 132
Section 6. Booksellers 132
Section 7. General Warning 133
Section 8. Ecclesiastical Penalties 133
Notes. Extent of the Prohibition of Books 133

TREATISE IX

THE CLERICAL STATE

Chapter I. Clerics in General 134
Chapter II. Vocation to the Clerical State . . 135
Chapter III. Rights and Privileges of Clerics . . 136
Section 1. The Rights of Clerics 136
Section 2. The Privileges of Clerics 136

PACK

Chapter IV. General Obligations of Clerics 137
Section I. Religious Duties . »37
Section 2. Obedience 138
Section 3. Clerical Studies . 138
Section 4. Clerical Celibacy 138
Section 5. Recitation of die Divine Office 141
1. The Obligation 141
2. The Manner of Recitation 141
3. Orderly Recitation . 142
4. Causes which Excuse from Recitation »43
5. Prayerful Recitation »43
6. The Kind of Office to be Recited . »44
Section 6. Clerical Dress . »44
Chapter V. Occupations and Amusements Forbidden to Clerics »45
i. Bail . »45
2. Unseemly Occupations . »45
3. Gaming . »45
4. Hunting . . . . »45
5. Entering Taverns 146
6. Medical and Surgical Practice 146
7. Legal Occupations 146
8. Legislative Activity 146
9. Shows, Dances, etc. »47
10. Military Service . »47
11. Trading »47
12. Investments 148
Chapter VI. Residence . »49

TREATISE X

THE RELIGIOUS STATE

Chapter I. Nature of the Religious State »5°
; Section 1. The Religious State in General . »5°
Section 2. The Nature of the Religious State »5°
Chapter II. Canonical Definitions »5»
Chapter III. The Government of Religious . »52
Chapter IV. Religious Vocation ..... »53
Chapter V. Postulants and Novices »53
Section 1. Postulants »53
Section 2. Novices »54
1. Valid Reception »54
2. Lawful Reception »55
3. Necessary Testimonials »55
4. Dowry 156
5. Testing Candidates »57
Section 3. Training of Novices »57
1. Inauguration »57
2. Duration of Nonceship »57
3. Interruption in the Period of Noviceship »57
4. Other Prescriptions 158

CONTENTS

FAOE

Chapter VI. The Spiritual Care of Religious .

Chapter VII. Religious Profession .

Chapter VIII. Studies in Clerical Institutes . 9

Chapter IX. Some Effects of Religious Profession

Chapter X. The Obligations of Religious .

Section 1. Perfection — — — —

Section 2. Clerical Obligations of Religious.

Section 3. The Vow of Poverty

Section 4. The Vow of Chastity

Section 5. The Vow of Obedience

Chapter XI. Renunciation of Property.

Section 1. Disposal of Property .

Section 2. Proprietorship . ' .

Section 3. Renunciation

Chapter XII. Enclosure and Choir

Section 1. Nature of Enclosure

Section 2. Law of Enclosure

Section 3. Safeguard of the Enclosure of Nuns

Note. Enclosure of Religious Congregations

Section 4. The Obligation of Choir .

Chapter XIII. The Privileges of Religious

Chapter XIV. Transference of Religious to Another Institute

Chapter XV. Abandonment of the Religious State

Section 1. Lawful Abandonment

Section 2. Unlawful Abandonment .

Chapter XVI. Dismissal from Religious Life .

Section 1. Automatic Dismissal .

Section 2. Dismissal by Superiors .

1. In the Case of Religious of Temporary Vows

2. In the Case of Perpetual Vows in a Non-excmpt Clerical or a Lay Institute — — — —

3. In the Case of Perpetual Vows in an Exempt Clerical Institute .

Section 3. Juridical Status of a Dismissed Religious of Perpetual Vows — — — — — — —

Appendix. Secular Institutes of Christian perfection

TREATISE XI

DUTIES OF CERTAIN CLASSES OF LAY PEOPLE

Chapter I. General Obligations — — — — —

Chapter II. Duties of Judges — — — — — —

Note. Jurymen — — — — — — — —

Appendix, i. Papal Allocution to Catholic Jurists

Chapter III. Duties of Plaintiffs, Defendants and Witnesses

Chapter IV. Duties of Barristers — — — — —

		PAOB
Chapter V.	Duties of Doctors and Surgeons	184
Appendix. 2.	A Hospital Code .	185
Appendix. 3.	Ecclesiastical Burial	IB?
Section 1.	General Principles	«ST
Section 2.	The Cemetery	187
Section 3.	Delay in Burying	188
Section 4.	Funeral Service in Church	188
Section 3.	Choice of Burial Place	189
Section 6.	Duties and Rights of Parish Priest	189
Section 7.	Burial	19°
Section 8.	Funeral Dues	191
Section 9.	Denial of Ecclesiastical Burial	191
Section 10.	Cremation—Penalties .	192
Note.	Disposal of Amputated Bodily Members .	192

TREATISE XII
THE SACRAMENTS IN GENERAL

Chapter I.	Number, Rite. Matter, Form, Intention .	193
Chapter II.	Differences in the Sacraments	194
Chapter III.	Répétition of a Sacrament	195
Chapter IV.	The Minister	195
Section 1.	Valid Administration	195
Section 2.	Licit Administration	196
Section 3.	The Obligation of Conferring the Sacraments	196
Section	The Obligation of Refusing the Sacraments	197
Section 5.	Pretence in Administering a Sacrament	197
Chapter V.	Subject of the Sacraments	198
Section 1.	Valid Reception	198
Section 2.	Licit Reception	199
Appendix.	The Sacramentals	199

TREATISE XIII
BAPTISM

Chapter I.	The Sacrament, Its Necessity AND Effects	200
Section 1.	The Sacrament	200
Section 2.	The Effects of Baptism	200
Chapter II.	The Matter and Form of Baptism	201
Section I.	The Matter .	201
Section 2.	The Form .	202
Chapter III.	The Minister of Baptism . .	203
Section i.	The Ordinary Minister .	203
Section 2.	The Extraordinary Minister .	203
Note.	Baptism by Heretics .	203
Chapter IV.	The Subject of Baptism .	204
Section I.	Normal Cases . .	204
Section 2.	Abnormal Cases .	204
Section 3.	JJ 11 Ul XluiLIlLS .	205
Section 4.	Baptism of the Children of Non-Catholics	205
Section 5.	Baptism of Converts	205
Section 6.	Baptism of Dying Adults	206
Section 7.	Baptism of Mental Patients	207

		PAGE
Chapter V.	The Ceremonies and Rites of Baptism	207
Section 1.	Solemn Baptism	207
Section 2.	The Rite	207
Section 3.	Baptismal Name	208
Chapter VI.	Sponsors	208
Section 1.	Actual Sponsorship	208
Section 2.	Valid and Lawful Sponsorship	208
Section 3.	Sponsor and Godchild	209
Chapter VII.	Time and Place of Baptism	209
Section 1.	Time of Baptism	209
Section 2.	Place of Baptism	210
Chapter VIII.	Record and Proof of Baptism	211

TREATISE XIV

CONFIRMATION

Chapter I.	The Sacrament, Its Effects, Matter and Form	212
Section i.	The Sacrament and Its Effects	212
Section 2.	Matter and Form	212
Chapter II.	The Minister of Confirmation	213
Section 1.	The Ordinary and the Extraordinary Ministers	213
Section 2.	Confirmation by a Priest	213
Section 3.	Duties of the Minister	215
Chapter III.	The Subject of Confirmation	215
Section 1.	Valid and Lawful Confirmation	215
Section 2.	Reception of Confirmation	215
Chapter IV.	Time and Place of Confirmation	216
Chapter V.	Sponsors	216
Chapter VI.	Record and Proof of Confirmation	217

TREATISE XV

THE HOLY EUCHARIST

Chapter I.	Sacrifice and Sacrament	218
Chapter II.	The Sacrifice of the Mass	218
Chapter III.	The Fruits and Efficacy of the Mass	219
Section I.	The Absolute Fruits of the Mass	219
Section 2.	The Relative Fruits of the Mass	219
Section 3	The Efficacy of the Mass	220
Chapter IV.	The Application of the Fruits of the Mass	220
Chapter V.	The Celebrant of Mass	222
Section 1.	Visiting Priest	222
Section 2.	Frequency of Celebration	222
Section 3.	Bination	223
Section 4.	Disposition of Soul	223
Section 5.	Eucharistic Fast	223

CONTENTS

			PAGE
Section	6.	Preparation and Thanksgiving	224
Section			224
Section	8.	Assistant Priest	224
Section	9.	Mass Server	225
Note.	Mass Server		225
Chapter	VI.	The Matter, Form and Rite of the Holy Eucharist	225
Section	n	The Matter of the Holy Eucharist	225
Section	2.	The Form of the Holy Eucharist.	226
Section	3.	Conditions of Consecration	227
Note.	Treatment of Fragments.		228
Chapter	VII.	The Presence of Christ Under the CONSECRATED Species	229
Chapter	VIII.	The Time of Celebrating Mass	230
Section	I.	Days on Which Mass May Be Celebrated	230
Section	2.	The Hour of Celebrating Mass	230
Chapter	IX.	The Place for Celebrating Mass	231
Section	I.	Places of Obligation	231
Section	2.	Permissive Places	232
Section	3.	Forbidden Places	232
Chapter	1	Requisites for Mass	233
		The Altar	233
	2.	The Frontal or Antependium	235
	3-	The Altar Canopy	235
		The Altar Cloths	235
	5.	Relics and Statues	236
	6.	Flowers	236
		The Crucifix	236
	8.	Candles and Candlesticks	237
		Ruling on Candles	237
	9.	The Lamp	238
	10.	The Missal, Stand, and Cards	238
		The Tabernacle	238
	12.	The Key of the Tabernacle	239
	13-	The Tabernacle Canopy	240
		The Throne	241
		The Predella	241
	16>	The Cruets	241
		The Bell	241
	18.	The Communion Rail and Plate	242
	19.	Incense	242
	20.	Blessing of Mass Requisites	242
	21.	Chalice and Paten	243
	22.		243
	23.	Monstrance and Lunette	243
		The Pall	243
	25.	The Corporal	244
	26.	The Purificator	
	27.	The Amice	
	28.	The Alb	
	29.	The Stole	
	So-	The Girdle	
	31.	The Maniple	245
			245

CONTENTS

PAO»

32. The Chasuble . 245
33. *Missa Dialogata* — — — — 246
34. Contact of Sacred Things 246
35. Loss of Blessings 246

Chapter XI. Circumstances in the Celebration of Mass 247
Section The Rubrics — — — — — 247
Section 2. Additions and Omissions in Mass 247
Section 3. Mass Discontinued or Interrupted 248
Section 4. Distractions During Mass . 248
Section 5. Tone of Voice in the Celebration of Mass
Section 6. Duration of Mass 249
Section Kind of Mass to be Celebrated . 249
Section 8. Music — — — — — 249
Note. The Teaching of Sacred Music 250

Chapter XII. Defects in the Celebration of Mass (*Missale Romanum, De Defectibus*) 250
Section 1. The Bread — — — — — — • 251
Section 2. The Wine — — — — — • 251
Section 3. Defect in Consecration — — — — 252
Section 4. The Form — — — — — — 252
Section 5. Defect of Intention — — — — — • 253
Section 6. Fragments — — — — — — • 253
Section 7. Disposition of Soul — — — — — - 254
Section 8. Disposition of Body — — — — — • 254
Section 9. Defects in the Ministry — — — — • 255

CHAPTER XIII. The Obligation of Celebrating Mass • 257
Section 1. The Obligation Derived from Office . 257
Section 2. The Obligation Derived from Mass Offerings 258
Section 3. Certain Rules Regarding Mass Stipends • 259
Section 4. The Time for Celebrating Stipend Masses . 261
Section 5. Transference of Mass Stipends . 262
Section 6. Retention of a Part of a Stipend 262
Section 7. Trafficking in Mass Stipends 263
Section 8. Some Circumstances of Mass Celebration 263

Chapter XIV. The Minister of the Holy Eucharist 264

Chapter XV. Conditions of Reservation and Administration . 265
Section 1. Reservation — — — — — — — 265
Section 2. Administration of Holy Communion to the Sick 267

Chapter XVI. The Subject of the Holy Eucharist 268
Section Those who may receive the Holy Eucharist 268
Section 2. Reception of Holy Communion by Children 269
Section 3. Disposition of Soul Necessary for Holy Communion 270
Section Frequent Holy Communion . 271
Section 5. Bodily Dispositions for Holy Communion 272
Examples 273
Section 6. Non-Fasting Reception of Holy Communion 273
Section 7. Circumstances Regarding Holy Communion 274

Chapter XVII. The Duty of Receiving the Holy Eucharist 275
Section 1. Duty Imposed by Divine Law 275
Section 2. Duty Imposed by Ecclesiastical Law . 275
Section 3. Holy Viaticum — — — — — 276

CONTENTS

FAÛE

Chapter XVIII. Time, Place, Manner and Rite in Administering Holy Communion — — — — 277
Section Day and Hour — — — — — 277
Section 2. The Place — — — — — — 277
Section 3. The Prescribed Manner — — — — 278
Section The Rite..... 278

TREATISE XVI

THE SACRAMENT OF PENANCE

The Nature of the Sacrament — — — — 80

The Minister of the Sacrament 280
Section Requisites in the Minister — — — — 280
Section 2. The Subject of Ordinary Jurisdiction . 280
Section 3. Cessation of Ordinary Jurisdiction 281
Section Granting of Delegated Jurisdiction 281
Section 5. Cessation and Limitation of Delegated Jurisdiction 282
Section 6. Jurisdiction for the Confessions of Male Religious 282
Section Jurisdiction for the Confessions of Female Religious 283
Section 8. Concession of Jurisdiction - - - 284
Section 9. Revocation and Suspension of Jurisdiction . 286
Section 10. Extension of Jurisdiction — — — — — 286

Chapter III. Sacramental Absolution — — — — — 287
Section 1. The Form — — — — — — — 287
Section 2. The Manner of Giving Absolution 287
Section 3. Absolution of the Dying — — — — — 288

Chapter The Sacramental Penance 290
Section Sacramental Penance—Imposition 290
Section Acceptance and Fulfilment of Penance 290
Section Quality of the Penance — — — — — 291

Duties of the Confessor . 292
Section Spiritual Father — — — — 292
Section 2. Judge and Physician 293
Section 3. Prudent Questioning 294
Section Doubtful Sincerity of Penitents 295
Section 5. The Duty of Giving or Refusing Absolution 295
Section 6. The Duty of Correcting Errors 296

The Sacramental Seal 297
Section i. Nature and Content of the Seal 297
Section 2. Obligation of the Seal 297
Section 3. Matter of the Violation of the Seal 298
Examples 299
Section Probabilities of Revelation 299
Section 5. When a Confessor May Use Confessional Know ledge 299
Section 6. Certificate of Confession 300
Section Canonical Penalties for Violating the Seal 300
Section 8. Persons Bound by the Seal 3θo
Notes 3°i

CONTENTS

			PAOB
Chapter VIL		The Obligation of Hearing Confessions .	302
Chapter VIII.		Reserved Sins	302
Section 1.		Nature of Reservation — — — — —	302
Section 2.		The Author of Reservation — — — —	303
Section 3.		Persons Subject to Reservation of Sins	304
Section 4.		Conditions of Reservation and Exemption	304
Section 5.		Cessation of Reservation of Sins Without Censure	304
Section 6.		Absolution of Reserved Sins	305
Chapter IX.		Confession — — — — —	306
Section 1.		The Obligation of Confessing	306
Section Q.		The Matter of Confession .	307
Section 3.		Confession of Converts	307
Section 4.		Generic Confession — — — —	308
Section 5.		Frequent Confession	308
Section 6.		Confession by Means of an Interpreter	308
Chapter X.		Examination of Conscience	309
Chapter XI.		Contrition — — — — —	309
Section 1.		The Nature and Necessity of Contrition	309
Section 2.		Qualities of Contrition for Mortal Sin	310
Section 3.		Qualities of Contrition for Venial Sin	311
Section 4.		Relation of Sorrow to Confession	311
Chapter XII.		The Purpose of Amendment	311
Section 1.		The Purpose of Amendment for Mortal Sin	
Section 2.		The Purpose of Amendment for Venial Sin	312
Chapter XIII		Actual Confession — — — —	312
Section 1.		The Qualities of Confession	312
		1. Truthfulness — — — —	312
		2. Oral — — — — —	313
		3. Complete, Material and Formal Integr ty	313
Section 2.		Confession of Doubtful Sins	3*4
Section 3.		Reasons Which Excuse from Material tegrity	3*5
Section 4.		Omissions Rectified — — — —	316
Section 5.		Necessary Repetition of Confession	316
Section 6.		General Confession	
Chapter XIV		Place and Time For Hearing Confessions	319
Section 1.		The Place — — — — —	319
Section 2.		The Time — — — — —	319
Chapter XV.		Absolution of an Accomplice	320
Chapter XVI.		Solicitation — — — — —	321
Chapter XVII.		Indulgences	323
Section		Nature and Kind of Indulgences	323
Section 2.		Clauses Employed in Granting Indulgences .	324
Section 3.		Conditions for Gaining Indulgences	324
Section		The Works Enjoined for Gaining Indulgences	325
		1. Confession — — — — —	325
		2. Holy Communion — — — —	325
		3. Visit to a Church	325
		4. Prayers Prescribed — — — —	326
Section 5.		Commutation of the Prescribed Works	326
Section 6.		Indulgenced Articles — — — —	327

CONTENTS

PAQK

Section
Section 8. Cessation of Indulgences . 327
Some Particular Indulgences 327
i. The Papal Blessing 327
2. Apostolic Indulgences . 328
3. Privileged Akar . 328
4. A Priest's First Mass 328
5. First Holy Communion 328
6. The Gregorian Masses 329
7. Indulgences at the Hour of Death 329
8. Apostolic Blessing at the Hour of Death 329
9. Some *Toties Quoties* Indulgences 329
a. All Souls' Day Indulgences 329
b. Portiuncula Indulgences 330
d. The Rosary of Our Blessed Lady Indulgences 331
10. The Scapular Indulgence 332
a. The Form of the Scapular 332
b. Kinds of Scapular 332
c. The Brown Scapular 333
d. Blessing and Enrolment 333
e. Scapular Medal . 333
ii. Crucifix Indulgences 334
12. Indulgence for Recital of the Divine Office 334

TREATISE XVII
CENSURES

The Nature and Kinds of Censure . 335
Section I. Definition of Censure 335
Section 2. Kinds of Censure 335
Chapter II. The Author of Censures 336
Chapter III. The Subject of Censure 336
Chapter IV. Delinquency 338
Section I. Nature and Kinds of Delinquency 33θ
Section 2. Imputability of Delinquency 33θ
Section 3- Cooperation in Delinquency 339
Section 4- Attempted Delinquency 339
Chapter V. Causes which Excuse from Censure . 34θ
Section I. Want of Reason 34°
Section 2. Ignorance and Fear 34°
Chapter VI. Reservation of Censures 34l
Chapter VII. Absolution from Censures 342
Section I. General Principles
Section 2. Absolution from Censures in Danger of Death
Section 3. Absolution from Censures Outside Danger of Death 344
Section 4. Absolution from Censures in Urgent Cases Outside Danger of Death 344
Chapter VIII. Excommunication 34θ
Section i. Definition 34θ
Section 2. The Effects of Excommunication 346

CONTENTS

xxiii

PAOB

Chapter IX. Reserved Excommunications — — — — 348

Section 1. Excommunications Reserved Most Specially to the Holy See..... 348

I. Absolution of an Accomplice — — — — 348

2. Direct Violation of the Seal of Confession 348

3. Attack on the Person of the Pope . 349

Profanation of the Holy Eucharist . 349

5. Violation of the Laws of Papal Elections . 349

6. Sacrilegious Concubinage — — — — 349

Section 2. Excommunications Reserved Specially to the Holy See — — — — — — — — 349

1. Apostasy, Heresy, Schism — — — — 349

2. Suspicion of Heresy — — — — — 350

3. Publication, Defence, Reading, Retention of Certain Books — — — — — — 350

4. Simulated Celebration of Mass, or Hearing Confessions without Priestly Orders . 350

5. Appeal to a General Council 35°

6. Impeding Apostolic Letters or Acts 35°

7. Legislation Against the Church 351

8. Citation of Cardinals, etc., to a Lay Tribunal 351

9. Violation of the Personal I • aloi dinals, etc. 351

10. Usurpation or Detention of the Property or Rights of the Roman Church 351

11. Fabrication of Documents 351

12. False Accusation of a Confessor 351

13. Trading Forbidden to Clerics, etc. 352

Section 3. Excommunications Simply Reserved to the Holy See 352

1. Trafficking in Indulgences 352

2. Aggregation to Impious Sects 352

3. Absolving from Censure Without Faculty 352

4. Showing Favour to Certain Excommunicates . 353

5. Citation to Lay Tribunal of Bishop, Prelate, etc. 353

6. Violation of Enclosure — — — — — 353

7. Usurpation or Conversion of Ecclesiastical Property — — — — — — — 353

8. Duelling — — — — — — — 354

9. Attempted Marriage By or With a Cleric in Sacred Orders, or Religious of Solemn Vow of Chastity — — — — — — 354

10. Simony . . - - - 354

11. Tampering with Certain Documents 354

Section Excommunications Reserved by Law to the Ordinary — — — — — — — 355

I. Abetting Heresy . 355

a. Contracting Marriage Before a Non-Catholic Minister — — — — — — 355

b. Married Parties Agreeing to Educate Offspring Outside the Church 355

c. Baptism by a Non-Catholic of Offspring 355

d. Non-Catholic Education of Offspring or Wards 355

CONTENTS

FACE

2. Making, Selling, Distributing, Exposing to Public Veneration False Relics 355
3. Violating the Personal Immunity of Clerics or Religious 355
4. Abortion 356
5. Apostasy from Religious Institute 356
6. Civil Marriage By or With a Religious Simple Vows 357

Section 5. Excommunications not Reserved 357

I. Writing or Publishing Without Permission ks of Sacred Scripture, or Notes or Com mentaries on them 357
2. Illegitimate Christian Burial 357
3. Alienation of Church Property 358
4. Compelling Another to Enter the Clerical o the Religious State 358
5. Failure to Denounce Solicitation 358

Chapter X- Interdict 358
Section 1. Nature and Kinds of Interdict 358
Section 2. The Effects of Particular Personal Interdict 359
Section 3. The Effects of General Personal Interdict 359
Section 4· The Effects of Local Interdict, General or Par ticular 360
Section 5. Interdict that Forbids Entrance into a Church 361

Chapter XI. Suspension 361
Section 1. Definition 361
Section 2. Suspension *ex informata conscientia* 362
Section 3- Dispensation from Suspension 362
Section Reserved Suspensions 362
Section 5. Suspensions Not Reserved 363

TREATISE XVIII

EXTREME UNCTION

Chapter I. The Sacrament and Its Effects 365

Chapter IL Matter and Form 365
Section I. The Matter 365
Section 2. The Form 366

Chapter III. The Minister 366
Section I. Valid and Lawful Administration 366
Section 2. Obligation to Administer the Sacrament 367

Chapter IV. The Subject of the Sacrament 367
Section I. Conditions for Reception 367
Section 2. Repetition of the Sacrament 368
Section 3· Conditional Administration 368
Section Necessity of the Sacrament 369

Chapter V. Rites and Ceremonies of the Sacrament 369

CONTENTS

TREATISE XIX

HOLY ORDERS

			PAOB
Chapter I.		Orders in General	370
Chapter II.		Matter and Form	370
Section 1.		Tonsure and Minor Orders	370
Section 2.		The Subdiaconate	371
Section 3.		The Diaconate, Priesthood, Episcopate	371
Appendix.		Replies on Orders Received Before April 1948	372
Chapter III.		The Minister of Ordination	376
Section 1.		Ordinary and Extraordinary Ministers	376
Section 2.		The Bishop of Ordination for Secular Clergy	377
Chapter IV.		Dimissorial Letters	378
Section 1.		The Grantor of Dimissorial Letters	378
Section 2.		The Granting of Dimissorial Letters	378
Chapter V.		The Ordination of Religious	379
Chapter VI.		The Subject of Ordination	380
Chapter VII.		Prerequisites of Ordination	
Section		Fitness for Ordination	381
Section 2.		Licit Ordination	381
Section 3.		The Ages for Ordination	382
Section		The Intervals Between the Several Orders	382
Section		Canonical Titles	382
Chapter VIII.		Irregularities and other Impedi ÎNTS	383
Section		Nature and Scope of Irregularity	383
Section 2.		Irregularity Due to Defect	383
	1.	Illegitimacy	383
	2.	Bodily Defect	384
	3.	Epilepsy, Insanity, Diabolical Possession	384
		Canonical Bigamy	384
	5.	Infamy of Law	384
	6.	Death Sentence	384
	7.	Cooperation in Death Penalty	384
Section 3.		Irregularity Due to Delinquency.	384
	1.	Apostasy, Heresy, Schism, Atheism	384
	2.	Voluntary Reception of Baptism from No Catholic Except in Necessity	384
	3.	Attempted or Civil Marriage in Certain Circumstances	384
		Voluntary Homicide, Abortion, or Assistance Therein	384
		Mutilation, Attempted Suicide	384
	6.	Unlawful Exercise of the Medical or Surgical Art by a Cleric, with Resulting Death	385
	7.	Exercise of Certain Acts of Orders	385
Section 4.		Simple Impediments to the Reception of Orders	385
	1.	Birth from Non-Catholics	385
	2.	A Subsisting Marriage	385
	3.	Civil Office Forbidden to Clerics	385

			PAGE
		Slavery	385
	5.	Military Conscription .	385
	6.	Conversion from Heresy, etc Before Sufficien Test	385
		Infamy in Fact	385
		Notes on Irregularities	385
Section	5.	Dispensation from Irregularities and Impediments	386
Section	6.	Petition for Dispensation .	386
Chapter IX.		Preliminaries to Ordination	387
Section		Due Preparation	387
Section	2.	Publication of Notice of Ordination	388
Section	3.	The Spiritual Exercises	388
		Actual Ordination	389
Section		The Rites and Ceremonies of Ordination	389
Section	2.	The Time and Place of Ordination	390
Chapter		Notification and Record of Ordination .	390

MARRIAGE

		Marriage in General	392
Section	i.	Nature of Marriage	392
Section	2.	The Married State	392
		The Purposes of Marrlage	393
Section		The Primary Purpose	393
Section	2.	The Secondary Purposes .	393
	III.	The Essential Properties of Marriage	394
Section		The Unity of Marriage	394
Section	2.	The Indissolubility of Marriage	394
		1. Intrinsic Indissolubility	394
		2. Extrinsic Indissolubility	395
	IV.	The Benefits of Marriage	395
Section		The Benefit of Offspring .	395
Section	2.	The Benefit of Conjugal Fidelity	396
Section	3.	The Benefit of the Sacrament	396
		Kinds of Marriage	396
Chapter	VI.	Christian Marriage a Sacrament	397
Section	1.	Terms Explained	397
Section	2.	Indications in Sacred Scripture .	396
Section	3.	Ecclesiastical Documents .	396
Chapter	VII.	Jurisdiction of the Church Over Marriage	399
Section	1.	Extent and Exercise of this Jurisdiction	399
Section	2.	Persons Subject to the Matrimonial Laws of th Church	400
Chapter	VIII.	Jurisdiction of the State Over Marriage	400
Section	1.	Marnages of the Baptized .	400
Section	2.	Marnages of the Unbaptized	401

CONTENTS

		FACE
Chapter IX.	Betrothal	401
Section	Character of Betrothal	401
Section 2.	Canonical Form of Betrothal	402
Section 3.	Betrothal, Void and Voidable	402
Section	Conditional Betrothal	
Section 5.	Effects of Betrothal	403
Section 6.	Dissolution of Betrothal	403
Section	Disclosure of Defects	404
Section 8.	Mutual Relations Between the Betrothed	405
Chapter X.	Preparation for Marriage	405
Chapter XI.	Preliminaries to Marriage	406
Section 1.	Freedom to Marry	
Section 2.	The Form of Prenuptial Inquiry	407
Chapter XII.	The Banns	
Section 1.	The Obligation of Banns	409
Section 2.	Method of Publication	409
Section 3.	Obligation of Revealing Impediments	410
Section 4.	Dispensation from Banns	410
Section 5.	Conclusion of Banns	410
Section 6.	Doubts Arising About Matrimonial Impediments	
Pastoral Notes		
Chapter XIII.	Matrimonial Impediments in General	413
Section	Nature of Impediments	413
Section 2.	Kinds of Impediment	413
Section 3.	Ignorance of an Impediment	414
Section	Cessation of Impediments	414
Chapter XIV	Doubtful Impediments	415
Section 1.	Resolution of Doubt	415
Section 2.	Procedure in Case of Doubtful Impediments	415
CHAPTER XV.	The Actual Impediments in Summary	416
Section 1.	The Diriment Impediments	416
Section 0.	Defect of Consent	4x6
Section 3.	Defect of Form.	416
Section 4.	Prohibitory Impediments	416
Section 5.	Prohibitions	417
Section 6.	Minor and Major Impediments	417
Section 7.	Retroactive Force of the Canons	417
Chapter XVI.	The Prohibitory Impediments	417
Section 1.	The Impediments of Vow	417
	1. Vow of Virginity	417
	2. Vow of Perfect and Perpetual Chastity	418
	3. Vow of Celibacy	418
	4. Vow of Receiving Sacred Orders	418
	5. Vow of Entering a Religious Institute	418
Section 2.	The Impediment of Legal Adoption	418
Section 3.	The Impediment of Mixed Religion	
Section	Marriage with an Apostate	420
Section 5.	Marriage with a Notorious Sinner or an Excommunicate	
Chapter XVII.	The Diriment Impediments	
Section 1.	Age.....	

Section	2.	Impotence	4^
Section	3.	Existing Bond	423
Section		Difference of Worship	424
Section	5.	Sacred Orders .	
Section	6.	Religious Profession .	
Section	7.	Abduction	4^5
Section	8.	Crime	
Section	9.	Consanguinity .	428
Section	10.	Affinity	429
Section		Public Propriety	43°
Section	12.	Spiritual Relationship	431
Section	13.		431
Chapter XVIII.		Dispensations .	431
Section		Dispensation in General	432
Section	2.	Papal Power of Dispensation	433
Section	3.	Local Ordinary's Power of Dispensation	435
£ Section		Parish Priest's Power of Dispensation .	436
Section	5.	Confessor's Power of Dispensation	436
Section	6.	Assistant Priest's Power of Dispensation	437
Section		Registration of Dispensation	437
Chapter XIX.		The Use of Delegated Power of Dispensing	439
Chapter XX.		Implicit Dispensation — — — —	439
Chapter XXL		Canonical Reasons for Dispensation .	44°
Chapter XXII.		The Petition for Dispensation .	44°
Section	1.	The Actual Petition — — — —	441
Section	2.	Mistakes in the Petition — — — —	
Chapter XXIII.		Matrimonial Consent — — — —	
Section	1.	The Qualities of Matrimonial Consent	
Section		The Obstacles to True Consent .	
		1. Want of the Use of Reason	
		2. Ignorance of what Marriage Means	
		3. Mistake — — — — —	
		4. Pretence — — — — — —	443
		5. Duress and Fear — — — — —	443
Section	3.	The Manner of Expressing Consent	
Section		Conditional Consent — — — —	
Chapter XXIV.		The Canonical Form of Marriage .	445
Section		The Form Itself — — — — —	
Section	2.	Persons Subject to the Form	
Section	3-	Persons Not Subject to the Form	
Section		Valid Assistance at Marriages	447
Section	5.	Valid Delegation to Assist at Marriages	
Section	6.	Lawful Assistance at Marriages	
		The Rite and Blessing of Marriage	449
Chapter XXVI.		The Celebration of a Mixed Marriage	450
Chapter XXVII.		Registration of Marriages	45θ
Chapter XXVIII.		Marriage of Conscience	451
Chapter XXIX.		The Time and Place for Celebrating Mar riages — — — — —	452
Note.		The Blessing After Childbirth — — — — —	453

CONTENTS

		PAOE
Chapter XXX.	The Effects of Marriage	
Section i.	The Effect of Marriage as a Sacramental Contract	453
Section a.	The Duties to Offspring	453
Section 3.	Legitimacy of Offspring	454
Section 4.	Legitimation of Offspring	455
Note.	Legitimation in English Law	455
Chapter XXXI.	Dissolution of the Marriage Bond	456
Section 1.	Consummated Christian Marriage	457
Section 2.	Unconsummatcd Christian Marriage	457
Section 3.	Marriage of the Unbaptized—Pauline Privilege	457
Section 4.	The Application of the Pauline Privilege	457
Section 5.	Dissolution of Marriage by Papal Power	457
Section 6.	Favour of the Law	458
Chapter XXXII.	Breach of Consortium	459
Section 1.	Duty of Consortium	460
Section 2.	Reasons for Separation of the Married	4θo
Chapter XXXIII.	Rectification of an Invalid Marriage	4θo
Section 1.	Rectification in General	46l
Section 2.	Rectification of Marriage by Renewal of Consent	461
Section 3.	Retroactive Convalidation	462
Chapter XXXIV.	Remarriage	463
Chapter XXXV.	Civil Marriage and Divorce	464
Section 1.	Civil Marriage	464
Section 2.	Civil Divorce	4θ4
Chapter XXXVI.	The Use of Marriage	465
Section 1.	Papal Teaching	465
Section 2.	Replies of Congregations	466
Section 3.	Papal Allocution on Artificial Fecundation	467
Chapter XXXVII.	Nullity of Marriage	468
Section 1.	The Meaning of Nullity	468
Section 2.	Grounds of Nullity in Canon Law	469
Chapter XXXVIII.	Nullity Suits	469
Note.	Gratuitous Services at Trials Before the Rota	472
Appendix i.	Decrees *nisi* in England and Wales, and Decisions of the Rota	472
Appendix 2.	Marriage in English Law	473
Section 1.	Requisites for a Valid Marriage	473
Section 2.	Nullity of Marriage	473
Section 3.	Judicial Separation	474
Section 4.	Grounds for a Petition for Divorce—The Act of 1937	474

CONTENTS

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A.A.S.	Acta Apostolicae Sedis.
c.cc.	canon or canons of the *Codex Juris Canonici.*
P.C.C.J.	Pontifical Commission for the authentic interpretation of the canons of the *Codex Juris Canonici.*
S.O.	Sacred Congregation of the Holy Office.
S.R.C.	Sacred Congregation of Rites.
S.C.C.	Sacred Congregation of the Council.
S.C.de Sacr.	Sacred Congregation of the Sacraments.
S.C.de Relig.	Sacred Congregation of Religious.
P.F.	Sacred Congregation of the Propagation of the Faith.
S.C.de Semin.	Sacred Congregation of Seminaries and Universities.
S.Pœnit	The Tribunal of the Sacred Penitentiary.
Rota	The Sacred Roman Rota.
C.T., *scss.c.can.*	The Council of Trent, session, chapter, canon.
Denz.	Denzinger, *Enchiridion Symbolorum,* etc.
pr.d.	condemned proposition.

INTRODUCTION

THE SCOPE AND SUBJECT OF MORAL THEOLOGY

SECTION 1. The Scope of Moral Theology

Moral theology is that part of theology which treats of the relation of human acts to eternal salvation. It lays down rules and principles according to which human acts must be performed so that man may, with God's help, attain salvation.

Its sources are divine revelation, tradition and the teaching of the Church. It is legalistic; it discovers what the law is and determines how law is to be applied. It is a science of human conduct ruled by law. It is not a mirror of perfection. Since it interprets law, it must call to its service the art of casuistry, as does every body of law.

Casuistry is the art of interpreting law reasonably and correctly, so as to resolve the manifold difficulties with which man is confronted in matters of moral conduct. It has its necessary place in human relations with God and His law.

SECTION 2. The Subject of Moral Theology

1. The subject affected by the principles and conclusions of moral theology is man as he now exists in this world, a personal, rational, human being, created, redeemed and sanctified by God. Since this is man's present state, he must try to discover and fulfil the divine purpose of creation, redemption and sanctification.

2. The ultimate objective divine purpose in creating man is the glory of God in both this life and the next. Man fulfils this purpose in life by living as God intends and orders him to live. If he does so he will attain everlasting happiness to which God wishes him to attain, and thereby he will realize the divine purpose completely and finally.

3. Man naturally wishes to attain to perfect happiness. He will do so by observing God's commandments: "If thou wilt enter into life keep the commandments" (Matt. xix. 17). Man therefore fulfils the divine purpose proximately in this life by keeping the commandments; ultimately, in the next life, by attaining perfect happiness, that is, the possession of God forever.

TREATISE I

HUMAN ACTS

CHAPTER I

THE HUMAN ACT AND ITS OBSTACLES

SECTION 1. The Essentials of the Human Act

The act which is characteristic of man as a rational being is a conscious and free act. Man acts consciously and freely when he knows both what he is doing and the purpose for which he does it.

To act without hindrance means that the will with complete freedom determines itself to act. But obstacles sometimes interfere with a man's knowledge and freedom. These obstacles are ignorance, concupiscence, fear and violence.

SECTION 2. The Obstacles to the Human Act

1. Ignorance

(a) In its moral aspect, ignorance is the lack of that amount of knowledge which one could have acquired by reasonable effort in order to act in accordance with moral law. Obviously, it is not possible to know to what extent a man is responsible for an act done in ignorance, unless we know to what extent his ignorance was culpable.

(A) If ignorance was invincible, an act done in such ignorance is not imputable. If ignorance was culpable and vincible, it may have been so in a greater or a lesser degree. If, with full deliberation, hardly any care was taken to dispel ignorance, that ignorance is termed crass or supine. If, with full deliberation, no care at all was taken to dispel ignorance in order that one might remain ignorant, that kind of ignorance is termed studied ignorance.

(c) Every degree of ignorance short of studied ignorance diminishes the culpability and imputability of an act done in consequence of such ignorance, but studied ignorance would increase imputability if it was fostered out of contempt of the law. If it was not so fostered, it would probably diminish imputability, because a man then chooses to remain ignorant lest, if he knew the law, he would feel obliged to, and would, obey it. There appears to be in such a case some respect for the law.

2. Concupiscence or Passion

(a) In this context and in its moral aspect, concupiscence means the appetency of any sensitive appetite or faculty. If we wish to know to what extent a man was responsible for an act done under the influence of passion, we must first know what was the degree of his passion, and to what extent he was responsible for its insurgence and continuation.

(ά) Concupiscence may be so vehement, as it is in a paroxysm of anger, that it momentarily deprives a man of the use of reason; even a slight degree of passion can interfere with clear judgment and free will.

(c) When concupiscence arises spontaneously, an act done under its influence is less imputable in direct proportion to the degree of the concupiscence. This is antecedent concupiscence, because it has arisen antecedently to any act of the will desiring it, or acquiescing in it.

(<Z) When concupiscence is directly excited, or deliberately fostered, the will has wished it. An act done under the influence of such concupiscence is more imputable than if the concupiscence had arisen spontaneously.

(e) Man must resist that concupiscence which prompts him to act wrongly. Every' movement of the rational will to act wrongly must be resisted. Movements of the sensitive appetite, such as inordinate movements to anger, lust, revenge, must normally be positively resisted. But if the movements persist in spite of all attempts to subdue them, and if continuous resistance induces great disturbance of mind, as it may do, then mere passivity' is permissible if there is no danger of allowing the movements to overcome one and lead to evil action.

(a) Fear is a state of mental trepidation at the prospect of some imminent or future evil, so that the will shrinks from the evil and tries to free itself from it by doing the wrong act which fear induces it to do.

(Z») Fear may be grave or slight. It can be absolutely grave, such as a brave man might experience, or it may be relatively grave, inasmuch as it is grave for some people but not for others. Sensibility of temperament and tender years are conditions which help to arouse relatively grave fear.

(c) Fear, howsoever experienced and in whatever degree, diminishes freedom, and so far forth diminishes imputability.

Force is coercion exercised by some extrinsic free agent against the will of him who is subjected to it. When a man resists such coercion

with all his might, he is not responsible for what he is forced to do. Force never destroys freedom (unless it takes away the use of reason); it rather affects the external acts of the bodily members. Absolute force takes away imputability; lesser degrees of force diminish imputability but do not take it away altogether.

Note. The Permanent Obstacles to The Free Human Act

The aforesaid obstacles to the human act are transient, but some obstacles are permanent, such as deep-rooted habits, neuroses, phobias, compulsions, which affect the mind and will as concupiscence affects them. Under the influence of these obstacles, freedom of moral action is either destroyed altogether or diminished, so that the imputability of acts done under their influence must be judged with discernment. Nevertheless there is an antecedent duty to get rid of all such interferences so far as possible, for a man is not excused from his evil acts because he is, as he says, the slave of habit, or suffers from compulsions. If he neglects to cure his disease—and sometimes it is a disease—he will be held responsible in proportion to his negligence.

CHAPTER II

THE EFFECTS OF HUMAN ACTS

I. An effect of a human act may be an effect which was intended for its own sake as an end in view, or as a means to some end in view, or it may be an effect which was foreseen but not directly intended, such as the incidental deaths of civilians when a town containing military targets is being blitzed.

2. The question arises, namely, when is an effect of an act not imputable? It is not imputable unless, i, the agent had foreseen the effect to be certain or very likely to happen; 2, the agent had the power to refrain from acting or to discontinue acting; 3, the agent was obliged to prevent the evil effect from taking place; 4, there was just balancing between the gravity of the evil effect and the legitimate advantage of the good effect; and, 5, the evil effect was not antecedent to the good effect. Thus all such conditions are often verified in the case of the bombing in a just war of an enemy ship carrying munitions and (or) soldiers, and only a negligible number of innocent women and (or) children.

3. The example given is an application of what is called the principle of the double effect which may be enunciated as follows: I am morally

allowed to set in motion a cause which will have two effects, one good and the other evil, under these conditions:

(a) If the cause set in motion is not morally evil in itself, i.e. illegitimate and unjustifiable.

(ó) If the good effect which alone may be intended either precedes the evil effect which is not intended, or results as immediately as the evil effect.

(r) If I have a proportionate reason for allowing the evil effect to happen, having regard, that is, to the preponderance of the good over the evil.

Applications

1. The deliberate and direct craniotomy of a living child in the womb is an evil act. The ultimate purpose of such an act, namely, the saving of the life of the mother, is no doubt a good purpose, but no good purpose can justify an evil act done to secure a good effect.

2. The dropping of the atomic bomb on Hiroshima had two effects, namely, the destruction of all military targets in the town, and the deaths of many innocent people in the town and at a distance from it. The reason for condemning the bombing is that the destruction of the innocent was out of all proportion to the destruction of the military targets in the town. The attempt to justify such destruction was twofold, namely, that in total war everyone is an enemy, and that the atomic bomb brought the war to a speedy conclusion and saved many lives. The first contention would justify the deliberate and direct killing of children, the sick, the maimed and those hopelessly incapable of doing anything. The second contention justifies evil that good may come. It was the disproportion between the evil and the good effects that ruled out what happened at Hiroshima. For the word good, we may substitute the word legitimate.

CHAPTER III

THE MORAL ACT AND ITS DETERMINANTS

SECTION 1. The Morally Good Act

The morally good act is an act that is freely done with both the conviction (at least subjective) that it is a good act, and the intention of doing what is morally good (at least subjectively). The morally bad act is one that is done freely with the conviction that it is bad.

SECTION 2. The Determinant» of the Moral Act

There are three and only three determinants of the moral act, namely, object, circumstances and purpose (end in view). They can be reduced to two, for purpose is really a circumstance, but it is treated separately as it has a very important influence on morality.

SECTION 3. The Object

The object is what the will primarily intends to do.

(û) This determinant transfers to an act its essential and primary morality, since the object is that which is first in intention, and obviously precedes its circumstances and end in view.

(ά) Some objects are intrinsically evil in the moral sphere of action. This evil may be either absolute, so that the act is never allowable (as deliberate blasphemy), or conditional (hypothetical), that is, the act may be allowable under certain circumstances.

(c) Some objects—though indifferent in the abstract—may be either forbidden or enjoined. Thus Catholics are enjoined to hear Mass on Sundays, and are forbidden to eat flesh meat on days of abstinence. In such cases the morality of an act is determined by a positive law.

(rf) The object of a good act, as almsgiving, gives its own specific character of goodness to the act; similarly, an evil object, such as calumny, gives its character of evil to the act. But though the external object gives its moral character to the will act, the execution of the act of the will adds nothing in the moral sphere to the act of the will, unless accidentally the external execution increases the intensity or frequency of the will act.

SECTION 4. The Circumstances

Circumstances are the accidental conditions of an act, such as duration, amount, quality, etc.

(a) Some circumstances affect the theological character of an act; thus want of full advertence renders an objectively grave evil act a

a light theft.

(ά) Other circumstances change the moral character of an act; thus adultery adds the evil of injustice to the evil of unchastity.

(c) Some circumstances increase or diminish the evil of an act; thus continued thefts aggravate, small thefts diminish, the gravity of injustice.

SECTION 5. The Purpose in View or Motive

If the purpose of an act is seriously evil, the act is seriously evil. If the purpose is only slightly evil but is the only purpose, then the act is wholly evil. If the purpose is manifold, some purposes being good whilst others are evil, the act is not wholly evil; thus, a little ostentation in bestowing an alms does not wholly destroy the moral goodness oi the almsgiving.

SECTION 6. Indifferent Acts

In a human act, the object may be in itself indifferent, as walking. The circumstances may be irrelevant morally, as duration or intensity. But the conscious purpose of the act must always be apprehended as either in accordance with right reason or contrary to it. Consequently no human act is indifferent in the concrete. Every human act is either morally good or morally bad.

TREATISE II

CHAPTER I

NATURE AND KINDS OF CONSCIENCE

i. Conscience is the practical dictate of reason concerning the morality of some act about to be performed. It may command, forbid, or permit. In order to act with subjective moral rectitude, a man must obey his conscience when it is certain. Moral certitude is sufficient. Since conscience is, as it were, the herald of God, and is the only guide to right moral action that man possesses, God judges man on the basis of his obeying the dictates of conscience.

2. There are different kinds of conscience, namely, true, false, strict, lax, certain, doubtful, probable, scrupulous, perplexed.

(a) The true conscience dictates what is, in fact, morally correct; the false conscience dictates what is, in fact, morally incorrect.

(b) The strict conscience dictates according to the strictest interpretation of the law; it may be correct, but also it may err on the side of severity; the lax conscience minimizes or eliminates obligations without sufficient reasons.

(c) The certain conscience is the conscience of one who is subjectively certain that the dictates of his conscience are correct. The doubtful conscience is that of one who doubts as to the correctness of his dictates. The certain conscience may be erroneous, for man is not infallible in his judgments, but he who acts with a certain conscience is not aware of any error and must obey the conscience which he has. On the contrary, one may not obey a doubtful conscience, for to act in doubt is to risk offending God.

(rf) A probable conscience is one that relies on probably valid reasons.

(e) A scrupulous conscience is that of one who, without reason, is in trepidation as to the moral correctness of his action. It is always erroneous.

(/) A perplexed conscience is the conscience of one who is confronted with alternatives each of which appears to be morally wrong.

8 CONSCIENCE

SYSTEMS OF MORAL ACTION

SECTION 1. Need of a System

When one has to act or wishes to act but has a doubt as to the moral rectitude of his proposed act, then if the antecedent doubt cannot be resolved, he is at liberty to adopt any one of the several procedures tacitly approved by the Church. When he does so, he is not acting in practical doubt—which he is not permitted to do—but with a moral certainty that he acts correctly. The several sets of rules for resolving doubts are the moral systems of resolving speculative doubt and arriving at moral certainty. The reason why there are several systems is that theologians differ in their respective attitudes to law and liberty. By some, libem· is emphasized, by others, law is emphasized. Four systems must be briefly recorded.

SECTION 2. Probabilism

Since this system invokes probable opinions, it is necessary to define the probable opinion. It is an opinion which a wise and prudent man would accept as probably true, though he fears it may not be.

The fundamental principle of this system is that in the conflict between law and liberty, when it is a question of only licit action, if law is doubtful, liberty is in possession. Law is doubtful if there is good reason for thinking that it either does not exist, or that it has ceased to exist, or that the law is not applicable to a case in hand. But it must be observed that probabilism is not a system for use when there is an obligation to ensure some definite result. Thus when valid Baptism of an infant in danger of death must be secured, it would not be permissible to use probably valid matter if certainly valid matter could be used.

SECTION 3. Equiprohahilism

The principles of this system are two. They are based on the principle of possession.

(a) When the existence of a law is in question, it is permissible to favour liberty when the reasons in favour of it are equal or almost equal to the reasons that favour law.

(ά) When a law certainly existed but its cessation is in doubt, the

reasons that favour liberty must be more probable than the reasons that favour the cessation of law.

SECTION 4. Probabiliorism

The principle of this system is that liberty may be favoured only when the reasons in favour of it are more probable than the reasons that favour law.

SECTION 5. C'oinpeneationism

The principle of this system is that one must take into account not only the degree of probability in favour of law, but also the degree of utility attaching to an act whose morality is in question. In other words, when the law is doubtful, one should not act against it (since it might then be materially violated) without a compensating reason proportionate to the gravity of the law and its probable existence.

Applications of Each System

Case. X has taken a vow; he has good reasons for thinking that he has fulfilled it; he has good (perhaps better) reasons for thinking that he has not fulfilled it.

(a) The probabilist would not oblige him to fulfil the vow if he had a good reason for thinking that he had already fulfilled it, even if the reasons to the contrary were better, short of moral certainty.

(ά) The equiprobabilist would oblige him to fulfil the vow if the reasons for thinking he had not fulfilled it were more probable than the reasons for thinking that he had fulfilled it. But if the question was whether or not he had taken a vow, then if the reasons for thinking that he had not taken it were equal or nearly equal to the reasons for thinking that he had taken it, he need not fulfil the vow.

(c) The probabiliorist would consider him obliged to fulfil the vow, unless the reasons in favour of his having fulfilled it were more probable than the contrary.

(if) The compensationist would consider him obliged to fulfil the vow even if he had more probably fulfilled it, provided that the fulfilment of the vow was a matter of great utility or importance to him.

SECTION 6. Probabilism in Practice

1. Since this system is tacitly approved by the Church, one who does not admit this cogency is not entitled to disallow a penitent to apply it to his case.

2. An opinion is termed intrinsically probable, when the reasons in its favour are such as to command the assent of a sensible man.

But to judge aright of the probability of an opinion requires a balanced judgment, a fair standard of moral education, and freedom from prejudice and unfounded preconceptions. Consequently only those who are trained in appraising moral arguments are capable of deciding on the probability of an opinion.

3. But if several authors of note hold an opinion as probable, their judgment creates an opinion that is termed extrinsically probable. One may act on such extrinsic probability. Indeed, that is the only available probability for many people.

4. It is permissible to apply two contrary probable opinions on two separate occasions to one and the same kind of act. Since on each occasion one is free to adopt either opinion, there is no inconsistency in using the opinions separately.

5. It is not permissible to apply two contrary probable opinions in such cases as the following:

(a) If I certainly owe £5 to either A or B, I may not repudiate the debt on the plea that I do not certainly owe the £5 to A, nor do I certainly owe it to B, for by doing so, I should be violating a certain right.

(ά) I may not take benefit from a will that is only probably valid and at the same time refuse to pay a legacy mentioned in the will on the plea that the will is probably invalid, because if I take benefit from the will, I must undertake to fulfil all the implied obligations.

TREATISE III

CHAPTER I

LAW IN GENERAL

SECTION 1. Nature and Character of Law

i. Law is an ordinance of reason established for the common good by him who has charge over the community and promulgated by him. Law in general is merely territorial. A precept is personal.

2. Law must be rational inasmuch as it is established for rational beings; it must be possible, both physically and morally; it must be upright, i.e. not enjoining evil; it must be useful for the common good, just to all classes of the community, and have a certain stability.

3. Jurisdiction is required in the lawgiver, that is, legitimate power of governing subjects in a complete society. This jurisdiction can affect both the external and the internal fora, i.e. the regulation of external conduct and the moral obligation in conscience.

SECTION 2. Kinds of Law

1. Divine Law

Divine law is threefold, namely, eternal, natural, and positive. Eternal divine law is the eternal ordinance of the divine creative wisdom ruling all persons, things and events. Natural law is the eternal law impressed upon creatures; in man, the natural law is the law of his human nature, promulgated in conscience; it is universal and immutable. Its universal principle is that moral evil must be avoided and that every human act must be morally good.

2. Human Law

Human law is ecclesiastical, municipal, and international.

(a) The Church has complete jurisdiction over its subjects, namely, the baptized, independently of all other juridical bodies, but it respects civil power in all matters that belong to that sphere.

(Z>) Municipal law, namely, the law of a people organised into a sovereign state, is established only by legitimate civil authority.

(cj International law is a body of pacts, agreements, and contracts entered into mutually by sovereign states. It is not strictly law since there is no supra-national lawgiver nor authority that can impose

sanctions for the violation of international law. Consequently, if one of the high contracting parties violates that law, the other contracting party' is not bound by it as such, but every state must, of course, observe natural law in its relations with other states.

SECTION 3. Obligation of Law

1. All just laws are moral laws, except that in some cases the lawgiver may wish to establish only a penal law. A penal law binds the transgressor to submit without resistance to the just penalty when it is inflicted.

2. The obligation of law is grave or light in accordance both with the matter enjoined and the reasonable wish of the lawgiver. Contempt of legitimate authority even in small matters is a grave moral offence.

3. Law based on customary' danger involved in its transgression binds always, even if the danger is thought to be absent; such is the Church law against reading certain books.

4. Civil law cannot enjoin purely internal acts but may enjoin what are called mixed acts, that is, acts which are external and conjoined with an internal act, such as the taking of the oath in the Law Courts. Similarly, the Church acting on its own proper authority, cannot, according to many theologians, enjoin internal acts but can enjoin mixed acts.

5. Neither Church nor State can enjoin heroic acts unless the common good requires that such acts are necessary, or a state of life has been freely undertaken which demands heroism, or the Superior judges that heroic acts are necessary for the preservation of some legitimate state of life. Thus if a Superior thinks that religious life in a community requires on occasion the exercise by a subject of an heroic act, he may exact it, but in accordance with the rules.

SECTION 4. Interpretation of Law

1. 'The tote interpretation of law is given only by the lawgiver or his successor or delegate. A declarative interpretation of the obvious meaning of a law needs no fresh promulgation; if, however, the interpretation restricts or extends the law, or explains doubtful law, it needs promulgation. When law is interpreted by means of a judicial sentence or rescript, the interpretation has not the force of law except for those for whom the reply or decision was given.

2. The customary interpretation of law is in itself merely directive, but it may establish a legitimate custom and then it has the force of law.

3. Doctrinal interpretation is that given by jurists. This has not the force of law.

4. Epieikeia is the interpretation of law in a particular case contrary to the wording of the law but in accordance with the mind of the law-giver, who must be supposed not to wish his law to be literally interpreted or applied in certain extreme cases. The principle may be applied to ecclesiastical but not to divine law. Civil law does not admit it, but a judge may interpret law in a humane sense.

SECTION 5. Fulfilment of Law

1. Law must be fulfilled in accordance with the wishes of the law-giver, and these may be gathered from the purpose and wording of the law, and customary interpretation.

2. A negative law is fulfilled by refraining from the forbidden act. A positive law which enjoins a personal act (fasting) must be fulfilled personally by a free human act; a positive law which enjoins a real (material) obligation (payment of debt) is fulfilled howsoever the act is done, even if done by proxy.

3. If a law presupposes for its fulfilment a state of grace in the subject (paschal Holy Communion) it must be fulfilled in the state of grace; if it does not suppose that state (hearing Mass) it can be fulfilled by one not in the state of grace.

4. Several laws can be fulfilled by one and the same act, or by simultaneous acts, if the several acts are mutually compatible (hearing Mass of obligation and reciting the divine office or a sacramental penance). But two obligations cannot be so fulfilled if one of them was explicitly imposed by a Superior (as a confessor) who was quite conscious of the existence of the other. Thus if a confessor imposes as penance the hearing of Mass, it is obvious that he does not mean Sunday Mass.

5. When a definite time is fixed for fulfilling a law, the obligation t ceases when the time has transpired, except that Holy Communion must be received after Easter if it had been omitted during paschal time. If no fixed time had been assigned, law may be fulfilled at any time, unless fulfilment is urgent or delay would prejudice the law in some way. Thus the celebration of Mass for one deceased is urgent; a long delay in fulfilling a vow to enter religious life might render the vow partially or wholly nugatory.

6. If the whole matter imposed by law cannot be performed, as the divine office, part of it must be performed, if possible, and if the matter is capable of division into independent parts, as the several hours of the divine office.

Note. Computation of Time

In determining the hours of the day, common usage must be adopted. But in the private celebration of Mass, the recital of the divine

office, reception of Holy Communion, observance of the laws of fasting and abstinence, any system of time may be adopted, namely, true or local mean time, legal time, whether regional or any other. Different systems of time may be used on the one occasion for acts that are formally distinct. The three Christmas Masses are not formally distinct acts (P.C.C.J., May 29, 1947).

SECTION 6. Excuses from Fulfilling Law

1. Subjects of law who are absent from the territory in which the law prevails as a purely territorial law, are exempt from the law, unless the non-observance or violation is calculated to do harm in the territory', or if the law is personal, for example, if such a person publishes elsewhere a book forbidden in his diocese, or if non-observance of a law would do harm to persons in his diocese, or if a beneficed cleric remained outside his diocese beyond a specified time, or a Religious stayed outside his house without permission.

2. The subjects of territory' A staying in territory' B are not subject to the particular laws of B, unless 1, these laws regard public order, as when an Ordinary forbids his clerics to frequent theatres on the ground of public scandal, 2, the laws of B rule the formalities of actions, such as contracts, wills, trials.

3. General ecclesiastical law binds a subject of diocese A staying in diocese B, if it is in force in B though dispensed in A.

4. If one is staying in diocese A though belonging to diocese B, a particular law of A (with the limitations set out above) does not bind him, although the same particular law rules in his own diocese.

5. Persons who have no fixed residence are bound by both general law and the particular law of the place where they are.

6. No excuse avails against prohibitory natural law, as "Thou shalt not steal."

7. In the case of law that is affirmative and positive, as the law of paschal Communion, a difficulty that is extrinsic to the law and accidental to its fulfilment excuses from the law. Thus a person may be excused or even exempt from the law of Sunday Mass. But no difficulty avails as an excuse from law the violation of which would redound to the contempt of God, religion, the common good, grave spiritual harm of the individual.

8. More serious reasons are needed for excuses from fulfilling negative laws than from fulfilling affirmative ones, divine laws than human, ecclesiastical laws than civil, and a graver obligation obviously requires a graver excusing reason.

9. In regard to placing obstacles to the fulfilment of law, the following conclusions may be adopted:

(α) A subject may depart from his territory in which a particular law exists, for he is not obliged to remain in his territory.

(à) Whilst a subject remains in his territory he may not directly interpose any obstacle to the observance of a territorial law, with the sole intention of violating the law if it is binding at the moment. He may, however, interpose an obstacle when the law is not yet in possession that will, in fact, prevent him from observing the law.

Applications

1. One may not undertake to do unnecessary work on a day of fasting primarily to evade the law.

2. One may not undertake a journey that is not necessary (or extremely useful) on Sunday morning, with the result that the hearing of Mass is made impossible.

3. One may undertake a journey on Saturday, though one foresee that it will be impossible to hear Mass on the Sunday following; so, too, one may undertake work on Thursday, though one foresees that it will therefore be impossible to fast on the Friday following. But frequent interpositions of such permissible obstacles would require a graver reason than would infrequent interpositions of the same or similar obstacles.

Note. Domicile and Quasi-domicile

1. Domicile is secured in parish, quasi-parish, diocese, Apostolic Vicariate or Prefecture, in either of two ways, namely, by taking up residence in those places with the intention of permanent residence, if nothing call one away, or, secondly, by actual residence continued for ten years.

2. Quasi-domicile is secured in either of two ways, namely, by actual residence with the intention of remaining for the greater part of a year, if nothing call one away, and secondly, by actual residence for the greater part of a year.

3. If one moves about from house to house in different parishes in a diocese, residence is diocesan, not parochial, if the residence is less than six months in the parish. But for purposes of marriage, a month's residence is equivalently parochial, and in the case of a *vagus* (one with no fixed residence), he is a subject of the parish priest of the parish in which he is actually present. One having a month's residence is treated as a *vagus,* so far as marriage is concerned, if he has no domicile or quasi-domicile anywhere.

4. Domicile and quasi-domicile are lost if one departs from them with the intention of not returning, but legal domicile is not so relinquished.

5. A wife who is separated from her husband but not legitimately,

retains the domicile of her husband; so also, an insane person retains the domicile of his guardian, a minor that of his guardian, but a minor after seven years completed can acquire a quasi-domicile; a wife separated but not legitimately from her husband can do the same, but if she is legitimately separated from him she can acquire her own domicile.

6. The proper parish priest and Ordinary' of a person is determined by that person's domicile or quasi-domicile. But the proper parish priest and Ordinary of one who has neither domicile nor quasi-domicile is determined by actual residence. Furthermore, the proper parish priest of one who has only a diocesan domicile or quasi-domicile is the parish priest of actual residence.

SECTION 7. Cessation of Law

1. Law ceases to bind by dispensation, exemption, privilege, and the implicit will of a Superior who does not enforce his law.

2. It also ceases when it becomes impossible, irrational, harmful, or if its purpose has ceased to exist for the whole community.

3. It ceases by revocation, abrogation (complete or partial), legitimate contrary' custom, contrary legislation that completely rearranges the matter of the law.

4. In doubt as to revocation of law, this is not to be presumed, and subsequent legislation is to be brought into line with preceding legislation as far as possible.

SECTION 8. Dispensation

1. Dispensation is the relaxation of law in a particular case. It is an act of jurisdiction and cannot be presumed. It can be express or tacit.

2. An inferior cannot dispense in the law of his Superior, but sometimes he can declare a person excused or exempted from the law.

3. The permission of a Superior given not to observe a law is not the same as dispensation, for often a law states that certain acts must be performed unless permission is given not to perform them.

4. Privilege is not dispensation; thus the privilege of a private oratory involves exemption from the general law of hearing Mass in church or public or semi-public oratory.

5. The author of dispensations:

(a) The lawgiver, his Superior, successor, or delegate, can dispense from law. An inferior cannot validly dispense from the law of his Superior without faculty granted to him by the Superior, law, or custom.

(*b*) The Pope can dispense from every ecclesiastical law. His Holiness can also dispense, for a just reason, from those obligations of divine law in which human will has intervened, such as vow, oath, non-consummated Christian marriage, etc., except when, in the judgment of the Church, the obligation is immutable, such as that of Christian consummated marriage.

(t) Ordinaries can dispense from their own laws and those of their predecessors, from general law in cases of doubt of fact, in all general laws provided that recourse to the Holy See is difficult and there would be danger of grave harm in delay and the case is one in which the Holy See is accustomed to dispense. But an Ordinary cannot dispense from the law of celibacy of subdeacons and deacons (P.C.C.J., Jan. 26, 1949). If the Ordinary is a local Ordinary, he can dispense*for a just reason X from the laws of a Provincial or Plenary Council of his country. Though a local Ordinary may not be able to have recourse to the Holy See, he must have recourse, if easily possible, to the Legate of the Roman Pontiff in the region who has communication with the Holy See (P.C.C.J., June 26, 1947).

Local Ordinaries have also power to dispense from certain matrimonial impediments, as will be explained later. They can also dispense their individual subjects or families, even outside their territories, and non-subjects inside their territories, from the general law of fasting, abstinence, and observance of Sundays and holy days of obligation; also the whole diocese or any part of it, on occasion of a great assemblage of the people, or for sake of health.

(*k*) Parish priests can dispense for a just reason and in particular cases their individual parishioners and families, even outside their parishes, and non-subjects inside their parishes, from the general law of fasting, abstinence, and observance of Sundays and holy days of obligation. They also have extensive powers over matrimonial impediments to be explained later.

(e) Superiors of an exempt clerical religious Institute can dispense in the same way as parish priests their own subjects and those who are residing in their religious house day and night for purposes of service, education, hospitality, or sickness. But they cannot grant dispensations from matrimonial impediments, unless by special privilege.

(*f*) Confessors as such have no powers of dispensing from general law, but have extensive powers to dispense in the tribunal of penance from certain matrimonial impediments, of which later.

6. Reasons for seeking dispensation from law:

(a) A just reason is required that an inferior may validly dispense in the law of a Superior when the former has delegated power so to act.

(ȯ) A proportionate reason is required for licit dispensation, but it need not be so great as the reason for exemption from law. The

following reasons may be alleged, namely, great inconvenience in observing the law, avoidance of frequent violation of law, the common good, happiness and joy of the people, difficulty in getting suitable food on days of fasting or abstinence, work out of the common, ill-health, danger of infection, preservation of strength, continuous attendance on the sick, avoidance of domestic strife, and others of a similar nature.

(c) A false reason alleged would invalidate a dispensation granted, except in a few matrimonial cases, to be treated later.

SECTION 9. Cessation of Dispensation

Dispensation ceases to be available by revocation, renunciation accepted by the grantor, on the death of the grantor, unless a clause permitting the continuance of the dispensation was added, when the reason for the dispensation has ceased to exist, unless the dispensation had been granted absolutely and irrevocably.

TREATISE IV

SIN

CHAPTER I

NATURE AND DISTINCTION OF SINS

SECTION 1. Sin in General

1. Sin is a thought, word, deed, or omission, against the law of God. The law of God includes all law which binds the conscience. Actual sin is sin committed. Habitual sin is sin persisting, i.e. the persisting guilt of unforgiven sin. Formal sin is deliberate; material sin is indeliberate sin.

2. Sin comprises three elements, namely, some moral evil, real or imagined; intellectual consciousness of the evil; volitional consent to that evil.

SECTION 2. Theological Distinction Between Sins

1. Sin may be mortal or venial. Mortal sin comprises three essential factors, namely, an object that is gravely evil or apprehended to be so; full advertence to the evil; full consent to the evil with the consciousness that it is gravely forbidden.

2. The gravity of the matter or object may be judged in either of two ways:

(û) If the object is seriously opposed to God or His attributes, or to the necessary order which God has established between Himself and man, or to some great good which man must procure for himself or others.

(ó) If the gravity of the object is determined by the teaching of Sacred Scripture, tradition, or the Church, when it expressly declares certain objects to be grave, or when it imposes grave penalties for certain sins, or when it implicitly approves of the teaching of theologians that certain sins are grave. The gravity of sins against human law is to be judged by the character of the matter of the law, its purpose, and the circumstances.

3. Some sins are always grave, as blasphemy; others are always light, vagange; others are grave of their nature but may be light in small matters, as theft.

4. A sin may be venial because the lew is not grave, or not apprehended as grave, or owing to want of full advertence or full consent in some grave matter.

SECTION 3. Change in the Character of Sins

1. Sin that of its nature is grave can become light if the matter of the sin is slight, as a small theft; if the conscience invincibly judges that to be light which in fact is grave; if advertence or consent is imperfect.

2. A venial sin becomes grave if the conscience judges it to be so; if the motive for acting is seriously evil; if it gives rise to proximate danger of mortal sin; if a slight obligation is despised; if several small sins coalesce, as in repeated petty thefts hoarded until a grave amount is reached.

SECTION 4. Specific Distinction of Sins

Sins are morally and specifically distinct from one another if their objects in the moral order are specifically distinct, as murder and theft; or if they are contrary to formally distinct virtues, as chastity and justice; or if the same virtue is violated by defect or excess, as pusillanimity and foolhardiness; or if the laws violated are specifically distinct, as the laws of fasting and hearing Mass.

SECTION 5. Numerical Distinction of Sins

Sins are numerically distinct the one from the other if the sinful acts are distinct, as two entirely separate thefts.

1. Sinful acts are distinguished numerically if each act has its entirely distinct object, as the murder of A and of B on separate occasions.

2. They are also distinct if their several objects are themselves numerically and morally distinct, as murder, theft.

3. If the object of several acts is the same, sins are numerically multiplied as follows:

(a) If the sins are internal, they are multiplied by deliberate cessation from one sin and deliberate consent to another, or if between the several sins there is notable interval even without conscious and deliberate intermission.

(ȯ) If the sins are external, they are multiplied as often as the several sinful acts can be regarded as separately complete.

(c) If a particular external sin was intended, as adultery, but not compassed, the several means employed to compass it, if distinct and if sinful, are several sins. But if the sin was compassed, and the several means employed, being sinful, were in the same category as the consummated sin, there is moral unity between the means and the consummated sin, so that only one sin\vas committed.* y-q".

(</) If a number of persons were injured by the one act, as

calumny of a group of people, their number docs not multiply the sin.

SECTION 6. Internal Sins

1. An internal sin is committed in the will when no corresponding external act is done. There are three species of such sins, namely, deliberate complacency in an evil act or object, such as murder; secondly, the desire of doing an evil act; thirdly, joy in or deliberate approval of evil done, with its correlative, sadness for good done.

2. Deliberate complacency in an evil object as such is of the same species morally and theologically as the object itself, but if the circumstances are also an object of complacency they, too, give then-moral character to it. But there may be an intellectual and speculative interest in evil objects, as in thinking of and analysing the several objects of different sins, or of the precise nature of sin, for this is not complacency in evil as such. Again, it is possible to take interest in the skilful way in which some sins were committed, as in an astute burglary, and this is not sinful.

3. Desire is the deliberate tendency of the will towards the execution of an act. It is efficacious if the will proposes to execute the act; it is inefficacious if the will would execute the act provided some condition was verified. Thus if I efficaciously desire to steal, I intend to steal and to take the means necessary to that end. The efficacious desire has the moral and theological character of the act itself; so, too, has the inefficacious desire, unless the condition annexed is such as to take away the evil character of the act. Thus if one desired to eat meat on a day of abstinence provided that the Church dispensed, the desire is not sinful.

4. To rejoice in evil is to approve of evil. This internal act has the moral and theological character of the act with all its circumstances, for it is to rejoice in the concrete act as it is. But to feel satisfaction in some particular circumstances of an evil act, such as the skilful way in which the evil was done, is not sinful.

5. To foster the feeling of sadness for some good done, merely because it was good, is evil. But to experience sadness for the arduous trials of a good life is not sinful; it is merely the natural human shrinking from hardship.

CHAPTER II

THE DEADLY SINS

Certain sins are called capital vices because they are the fertile sources of many sins. They are also called deadly, probably for the same reason, not because they are all grievous, though they are often the first steps in the progress to grave sins.

1. Pride

1. Pride is the inordinate appetite for one's excellence. Consummate pride was the sin of Lucifer, the desire so to excel as to repudiate subjection to God. Such pride is a grave sin. But pride that prompts one to despise equals and inferiors is a grave or a light sin according to the amount of injustice wished, even internally, to the neighbour. Pride that prompts one to lord it over equals, if it is more than merely legitimate emulation, is a venial sin.

2. The usual accompaniments of pride are presumptuousness in attempting what is beyond one's powers, ambition, vainglory.

2. Covetousness

1. Covetousness is the inordinate love of temporal things. In itself it is a venial sin, but would be grievous if it led to grave injustice, or uncharity, or to gravely evil methods of getting or remaining rich.

2. The usual accompaniments of this vice are hardness of heart, disquiet at possible financial loss, dishonesty and deceit.

3. Lust

1. Lust is the inordinate appetite for sexual pleasure. It is inordinate when the pleasure is sought either in a way that cannot fulfil the purpose for which man has this appetite, or when it is sought excessively in the married state. This vice is called a capital vice because by it man is led into all sorts of disorders to gratify his fleshly desires.

2. The usual accompaniments of this vice are blindness of intellect in regard to divine things, hatred of God as the Avenger of this vice, love of inordinate pleasures, infidelity in marriage, inordinate fear of death. The subject is fully treated under the sixth commandment.

4. Gluttony and Drunkenness

1. Gluttony is the inordinate indulgence in food or drink. The sin is committed when food or drink is taken in such quantity, quality,

or with such avidity, as to be unreasonable, or when food or drink is taken for pleasure to the exclusion of every rational motive.

2. In the matter of eating, gluttony is generally speaking a venial sin, but accidentally and for extrinsic reasons it can be grievous. It becomes grievous if it leads to violation of serious duties, if immediate harm that is serious is done to health, if it renders one unfit for one's serious occupations for a considerable time.

3. Drunkenness, that is, excessive drinking of intoxicating liquor for the sake of pleasure, resulting in loss of reason for a considerable time, is a grievous sin. It is, however, permitted to deprive oneself of the use of reason for a good purpose, such as the undergoing of a surgical operation.

4. The taking of emetics for the purpose of eating and drinking again is probably not a serious sin in itself, but is certainly inordinate and venially sinful.

5. The fundamental reason why complete drunkenness is a serious sin is because in that state a man cannot be quickly roused from his stupor in the event of his being in danger of death, and being unable to prepare himself spiritually to meet God.

6. The usual accompaniments of drunkenness are neglect of duty, immoderate hilarity, buffoonery, filthiness of bodily habit.

7. In the case of the dying, a mild dose of narcotics may, if necessary, be administered to relieve intolerable pain, but not so large a dose as to take away consciousness till death supervenes. This principle is certainly true if the dying person is not spiritually prepared for death. If, however, the dying person is, so far as one can judge, spiritually prepared for death, a priest, though not suggesting such powerful narcotics, may be passive if the medical attendant wishes to administer them. Nevertheless every effort should be made to administer such narcotics as will relieve pain but not destroy consciousness, for the last moments of life may be of supreme value for the spiritual benefit of the dying.

5. Anger

1. Anger is the inordinate inclination to take revenge. It may be inordinate in its exhibition, or in reference to its object. If it is vented inordinately and excessively on some object not deserving of anger, it is, of its nature, a grievous sin. If it is inordinate in its exhibition, it is, of its nature, a venial sin.

2. Its usual accompaniments are blasphemy, contumely, quarrelling, fighting, wounding and killing.

i. Envy is wilful sadness on account of the good of another, whether temporal or spiritual, regarded as diminishing one's own good. When

another is praised, one sometimes feels disregarded and therefore envious of the praisc which that other has received. The sin ol envy is contrary' to charity. It is, in general, a grievous sin, but may be light if the good envied is small.

2. Its usual accompaniments are hatred, detraction, joy in the adversity of others.

7. Sloth

!. Sloth is an oppressive sorrow that induces a man not to wish to exercise any virtue. It is a grave sin if it excludes charity to God, or to the neighbour in serious matters. It is venial, if it excludes the performance of light precepts.

2. Its usual accompaniments are hatred of spiritual matters, spite, despair, sluggishness in fulfilling duties, tendency to the pleasure that excludes the exercise of virtue.

TREATISE V

VIRTUE

CHAPTER I

KINDS OF VIRTUE

SECTION 1. Virtues, Natural and Supernatural

i. Perfect virtue, considered ethically, is an essentially good operative habit, which gives man both the power and the impulse to do readily that which befits his rational nature so as to achieve his happiness.

2. Supernatural virtue is a supernatural habit which gives man the capacity of acting, that he may achieve his supernatural end.

3. Natural virtues differ from supernatural virtues, first, in regard to the good to which they dispose man; secondly, natural virtues give man the facility and impulse to right moral action, whereas supernatural virtues give man the capacity to act supematurally but not facility in acting; thirdly, natural virtues are strengthened by natural acts, but supernatural virtues are strengthened by God; fourthly, natural virtues, if acquired, exclude the contrary vices, but supernatural virtues are exercised in spite of their contraries, for they are given that passions may be subdued.

4. Natural virtues are either intellectual or moral, that is, the intellectual virtues tend to truth, the moral virtues to rational good, and perfect the will and the sensuous appetite. The intellectual virtues are either speculative, as wisdom, knowledge, understanding; or practical, as art and prudence.

5. That we may act rationally, it is necessary that reason should be well-disposed by the habits of intellectual virtues, and that the appetitive powers should be well-disposed by the habits of the moral virtues.

SECTION 2. Virtues, Infused and Acquired

Virtues may be infused or acquired. They are essentially infused when given immediately by God; they are acquired when got by repeated acts. The three theological virtues, namely, faith, hope and charity, are infused by God; the supernatural moral virtues are, according to common opinion, also infused.

VIRTUE

CELAPTER II

THE CARDINAL VIRTUES

SECTION 1. Prudence

Prudence is the virtue which disposes man to discern the mean of every virtue and inclines him to choose the right means of action. It is called a moral virtue, not essentially, but because it directs the acts of the moral virtues. The various applications of prudence are called its parts, such as political and military prudence, the prudence that seeks wise counsel, applies general principles, and judges aright.

SECTION 2. Justice

I. Justice is the moral virtue which inclines man to give to others what is due to them as of right. The mean of this virtue is precise and exact, namely, what is exactly due, neither more nor less.

(a) Commutative justice has for its object the rights of individuals relatively to other individuals, or communities relatively to other communities regarded as distinct entities, or of individuals to communities and *vice versa.*

(ά) Distributive justice has for its object the rights of individuals relatively to society, or of a part of society relatively to the whole.

(c) Legal justice has for its object the rights of society relatively to a part, or to individuals.

SECTION 3. Fortitude

1. Fortitude is that moral virtue which inclines a man to face courageously all grave dangers, especially the danger of death. On the other hand, it prevents a man from giving way to fear and recklessness.

2. Fortitude is displayed by magnanimity, munificence, patience, longanimity, perseverance in arduous undertakings, and in enduring protracted sufferings, as is the case of a soldier in war and a martyr under persecution.

4. Temperance

I. Temperance is the moral virtue which regulates the sensitive appetite in accordance with right reason in regard to pleasures of taste and touch, so as to incline a man to be moderate in food, drink and sexual behaviour.

2. Many virtues are annexed to temperance, such as meekness that moderates anger, clemency that tempers justice, modesty that regulates outward behaviour, humility that checks self-aggrandizement.

CHAPTER III

THE SUPERNATURAL PLANE OF THE VIRTUES

i. The moral virtues would have remained natural in the state of pure nature, but man has been raised to the supernatural state, and has a supernatural destiny which he is bound to achieve. That he may do so, God enlightens his mind by faith, and gives him graces to enable him to rise above mere nature, and to travel along the highway that ultimately reaches heaven. This destiny is beyond all the exigencies and achievement of mere nature.

But man retains his human nature, though he has received new potencies, which are brought into operation by grace, so that if man cooperates with that grace, he will merit the destiny which God has appointed for him.

2. Man's natural virtues have been, as it were, sublimated; their objects are no longer natural, they are supernatural, his motives are no longer natural, they are supernatural. His conduct has for its exemplar the model of Christ, his Saviour, who teaches man how to exercise human acts from the higher motives of faith, hope and charity on the divine plane.

3. That man may foster and readily exercise his newly given powers, the Holy Spirit infuses into him sanctifying grace and with it the sevenfold gifts, whereby he is disposed to act in cooperation with the graces which God gives him. These gifts or supernatural habitual qualities of the soul are wisdom, understanding, counsel, fortitude, knowledge, piety, fear of the Lord. Of all the supernatural virtues given to man by God, the most important are the theological virtues of Faith, Hope and Charity. These have God Himself for their immediate object, inasmuch as God is to be believed on his own authority when He reveals, He is to be hoped for as man's supreme good, He is to be loved for His own sake.

TREATISE VI

CHAPTER I

FAITH

The three virtues, Faith, Hope, and Charity, are called theological virtues because they relate immediately to God. They are not moral virtues, whose motive is the reasonableness of exercising virtues.

SECTION 1. Nature and Obligation of Faith

1. The act of faith is the firm assent of the intellect with the assistance of divine grace, to a truth revealed by God, the motive of the assent being the authority of God Who reveals the truth, and in revealing can neither deceive nor be deceived.

2. Man is bound to believe what God has revealed. We know what God has revealed by the testimony, teaching and authority of the Church.

3. Actual faith in adults is necessary for salvation, for it is the foundation and root of justification.

SECTION 2. Content of Faith

1. The truths which must be explicitly believed are that God exists and that He is the rewarder of them that seek Him (Heb. xi. 6). It is probable that the mysteries of the Blessed Trinity and the Incarnation must also be believed as necessary for salvation, but according to great theologians, implicit belief in those two mysteries is sufficient. But a dying unbaptized person who is baptized and converted to the faith must be taught these two mysteries for his explicit belief.

2. Besides the aforesaid truths, others are to be believed by virtue of precept. The common opinion is that every Christian must know and believe the substance of the Apostle's Creed, the necessary Sacraments, the other Sacraments when there is need of receiving them, all the Commandments of God, and those of the Church which affect all baptized persons.

SECTION 3. The Act and the Profession of Faith

There is a grave obligation to make the act of faith. It must be made when one comes to the knowledge of divine revelation on

conversion to the faith, when a definition of faith is proposed by the Church, when the Church enjoins a profession of faith, and sometimes during life.

We must openly profess the faith when God's honour or our neighbour's good requires it, and also when the Church enjoins it.

SECTION 4. Sins Against Faith

The sins against Faith are:

1. Positive infidelity, that is, deliberate rejection of the true faith, and culpable neglect in acquiring a knowledge of revelation.

2. Apostasy, that is, complete repudiation of the faith by one who had received the faith in Baptism.

3. Formal heresy, that is, the act of a baptized person by deliberate and contumacious denial of, or wilful doubt about, a truth of faith proposed by the Church to be believed.

4. All active deliberate cooperation with non-Catholics in their distinctive religious functions. Passive assistance at them is, in general, forbidden, owing to the external profession of a false worship, danger of scandal and perversion. But passive assistance is permitted for a grave reason with due safeguards and apart from scandal. The canons (c. 1258, §2) mention non-Catholic funerals, marriages, and similar functions. In cases of doubt as to sufficient justification, the local Ordinary's permission is required.

5. Catholics are not allowed, without permission of the Holy See, to engage in public discussions on matters of faith especially at interdenominational meetings. They are not allowed even to be present at them (S.O., June 5, 1948).

Interdenominational Conferences

The Supreme Congregation of the Holy Office issued an Instruction (Dec. 20, 1949; A.A.S., 1950, pp. 142 sqq.) to local Ordinaries on the "Ecumenical Movement," that is, the movement for the union of all Christians. The following extracts from the Instruction are of great practical importance. The reader is referred to the original text, as these extracts give the substantial sense, and are not a literal translation.

I. Since the reunion of those Christians who are outside the one true Church of Christ (with the Catholic Church) is a chief part of the office and duty of the Church, Bishops must not only watch over this movement, but also prudently promote and direct it, that they may help those who seek the truth and the true Church, and avert from the faithful those dangers which easily follow the movement.

2. Ordinaries will approve suitable priests to take part in the movement, who must bear in mind the teaching and norms prescribed

by the Holy See in, for example, the Encyclical Letters *Satis Cognitum* (Pope Leo XIII), *Mortalium Animos* (Pope Pius XI), *Mystici Corporis Christi* (Pope Pius XII).

3. Bishops must take care lest, under an erroneous persuasion, those matters of agreement with non-Catholics are more stressed than those of disagreement, for thereby a dangerous indifferentism is fostered.

4. Care must also be taken lest the spirit of irenicism in matters of dogma and of truths connected with dogma lead to an accommodation, as it were, of Catholic doctrine to the doctrine of the sects.

5. That style of speaking -whereby false opinions and fallacious hopes are created must be avoided, as, for example, by saying that what is stated in the Encyclical Letters of the Roman Pontiffs concerning the return of sectaries to the Church, the constitution of the Church, the Mystical Body of Christ, are not matters to be held by faith, or which is worse, that, in matters of dogma, the Catholic Church does not possess the fulness of Christ, and that it can be perfected by other Churches.

6. In presenting the history of the Reformation, that which is subsidiary must not be so brought into the light, that the essential thing, namely, apostasy from the Catholic Church, is hardly apprehended.

7. Catholic teaching must be set out in its entirety. What Catholic truth embraces concerning the true nature and way of justification, the constitution of the Church, the primacy of jurisdiction of the Roman Pontiff, the fact that the only genuine union of Christians must be by way of return of sectaries to the one true Church of Christ, these things are not to be passed over in silence, or glossed in ambiguous terms.

8. Return to the true Church is not to be described as though those who return appear to be bringing something substantial to it which hitherto had been lacking.

9. Where there is hope of good results from mixed conferences, priests must be designated for taking part in them who arc entirely fitted for the exposition and defence of Catholic doctrine. Others of the faithful may not attend these conferences without special permission.

10. As to debates between Catholic and non-Catholic theologians, those priests only may be appointed who have proved themselves truly fitted by their theological knowledge and firm adherence to the principles and norms laid down by the Church.

11. Mixed conferences are not absolutely forbidden, but leave for them must be obtained from competent ecclesiastical authority.

12. Catechetical instructions given to several together and conferences in which Catholic doctrine is explained to intending converts

are not forbidden, even though non-Catholics expound the teachings of their own Churches. But the purpose in view must be that the points of agreement and disagreement ai e clearly apprehended by the non-Catholics.

13. Those meetings of Catholics and non-Catholics are not forbidden, in which the discussion centres on the methods of defending the fundamental principles of Natural law, or the Christian religion against the attacks of the enemies of God, or of restoring the social order, and other like matters. Obviously Catholics may not approve of or concede anything which, even in sociological matters, is at variance with divine revelation or the teaching of the Church.

14. In regard to local discussions and meetings, permission is granted to local Ordinaries to give the necessary approval of the Holy See on three conditions, namely, (a) that all communication in sacred functions is avoided, (b) that the treatment of matters at issue is duly examined and directed, (c) that at the end of each year a report is sent to the Sacred Congregation of the Holy Office as to the place of the conference and the experience derived from it. As to theological conferences, there is an added condition, namely, that a yearly report is sent to the aforesaid Congregation of the questions treated and the persons of each party present.

15. In regard to interdiocesan, national, or international conferences, pennission of the Holy See for each separate conference is to be obtained, and in the petition it must be stated what questions are to be dealt with and who are the participants. Before the permission has been granted, no external action towards convening the conference may be begun, nor any cooperation with non-Catholics if they begin to move in the matter.

16. It is not forbidden to recite at the beginning or the end of the conferences the Our Father, or any other prayer approved by the Church.

17. Religious Superiors must see that their subjects adhere strictly to the prescriptions of the Holy See and the Ordinaries.

18. All, especially priests and Religious, are to be exhorted to pray that the -work of reunion may be fruitful, and are to be reminded that nothing is more efficacious in preparing the way for those in error to come to the truth and the Church, than the good lives of Catholics bearing witness to their faith.

The hierarchy of England and Wales issued the following Instruction on the foregoing matter.

i. Normally such meetings should not be initiated otherwise than by the bishop of the diocese.

2. In any case they may not be held without his express and written permission, and the subject matter must be submitted to him for his approval.

3. Publicity should not be given to such discussions, and no articles or letters on this subject may be submitted to the press, without previous reference to the Bishop. This injunction is to be strictly interpreted.

4. None of the clergy or faithful may attend or take part in any meeting convened by non-Catholics to discuss religious matters, even though the meeting is held privately, without the written permission of the Bishop of the diocese.

5. In accordance with the decision of the Holy Office, these regulations are binding on all clergy', secular and Religious, and on all the faithful (May 5, 1950).

CHAPTER II

HOPE

1. The act of the virtue of Hope is an act of confident expectation of eternal happiness and of the means necessary to obtain it, if we do what God requires of us. The motive of hope is based on the almighty power of God to fulfil His promises, His fidelity to them, and His merciful benevolence.

2. Hope is absolutely necessary for salvation; it is also enjoined and must be elicited when a person comes to the use of reason, and the object of Faith and Hope is sufficiently apprehended; also when one has co!.1111itted the sin of despair. It must also be elicited sometimes during life, and when some precept cannot be fulfilled without hope, such as confession of mortal sins, and finally when some temptation cannot be overcome without making an act of hope.

3. The sins against hope are presumption and despair. They are grave sins if they include heresy and blasphemy.

CHAPTER III

CHARITY

SECTION 1. Love of God

1. Divine Charity is the pure, disinterested, and perfect love of God for His sake, which involves the love of others for God's sake. The object of this love is God Himself, or any of the divine perfections, or the sum total of them.

The motive of this love is the lovableness of God, not merely because He is good to us, but because He is infinitely good, as One who has all perfection and is worthy of supreme love on His own account.

2. The love of appreciation of any creature in preference to God is a grave sin, for we are bound to love God more than any created person or thing.

3. In the case of one who is in original sin and cannot receive Baptism, and of one in mortal sin who cannot receive the Sacrament of Penance, an act of perfect love of God is necessary for salvation, but martyrdom is of itself a perfect act of love.

4. The act of love is necessary when a person comes to the use'of reason and apprehends his relation to God, and more than once during life; it is probably not necessary at the hour of death if the dying person is already in the state of grace.

5. The sins against the love of God are the hatred of enmity or malevolence towards God, or the wishing evil to Him (if that were possible). This is the greatest of all sins. The other sin against this love is the hatred of abomination, that is, hatred of God regarded as an evil to man, because, for example, God punishes sin.

SECTION 2. Love of Self

Love of self for God's sake is not selfish love. Christ commanded us to love our neighbour as ourselves and therefore we must love ourselves. We do so when we love in ourselves the participated perfection of God. We are therefore bound to aim at our own eternal happiness, supernatural good, spiritual and temporal means of attaining heaven, the external goods of fortune and good repute in so far as these are necessary helps to serve God. We sin against this love by neglecting the means of our salvation, and by an ill-regulated hatred of self. The Saints hated themselves in the sense that they hated what was evil and sinful in themselves. If they appeared to hate their bodies, it was rather their bodies as instruments of sin which they hated; they chastised their bodies to bring them into subjection (i Cor. ix. 27).

SECTION 3. Love of the Neighbour

1. The neighbour is every rational creature capable of achieving or retaining eternal happiness. Therefore our neighbours are all men living, the Souls in Purgatory, all creatures in heaven. The devils and all others in hell are not neighbours in this sense.

2. We are obliged to love the neighbour with the internal act of benevolence, and to show our love by external beneficence.

3. Our obligation to afford help, spiritual and temporal, to a neighbour, is determined by the need of the neighbour, the closeness of our relations to him, and our ability to help.

4. The neighbour's need can be extreme, almost extreme, grave, or light. In a neighbour's extreme spiritual need we must help him even at the risk of our life, if that amount of help would be certainly effectual and necessary. He cannot be said to be in extreme need so far as we are concerned if there arc others who can help him.

In a neighbour's extreme temporal need we must help him at our own grave but not extreme inconvenience. In his grave need we must help him but not to our own serious harm. In his ordinary need we are not obliged to help everyone, but must help some at some time.

5. The order of charity requires that we should love others in this order, namely, consort, offspring, parents, brothers and sisters, other relatives, friends. But in extreme need, parents are entitled to our help before all others, for they were the sources of our life.

6. We may sacrifice but not take our own life to save the life of another. We may even expose our life to proximate danger for the great spiritual good of another.

7. We must love those who are our enemies, i.e., enemies to us, and this is both a general and a particular precept. Consequently we must avoid hatred and revenge. Pardon of an insult may not be withheld if asked for; it may, however, be withheld for a time owing to righteous indignation, or as a corrective. We are not obliged to offer pardon before it is sought unless additional harm would ensue by our refusal. We may not exclude enemies from the common prayers which we offer for all mankind. Dislike of objectionable qualities in others is not sinful, but it may easily merge into personal hatred of them.

SECTION 4. External Acta of Charity

There are two chiefexternal acts of charity, namely, almsgiving, which includes all kinds of material help, and fraternal correction.

1. Almsgiving

(a) Almsgiving is the bestowal on another in temporal need of something material to relieve that need. The obligation of almsgiving is a grave duty and is determined by three factors, namely, the need to be relieved, the closeness of relation, and the capacity of the giver.

(ó) If another is in extreme or almost extreme need, one is seriously obliged to help him, but without depriving oneself of the necessaries of life.

(c) If another is in grave but not extreme need, we are seriously bound to help him out of our superfluities.

(rf) If another is in ordinary but not grave need, we are obliged to help him, but not at grave inconvenience, out of our superfluities.

2. Fraternal Correction

(a) Fraternal correction is private admonition given to another to withdraw him from sin or prevent him from sinning. This obligation is laid on all men, and is grave if certain conditions are verified.

(ὁ) Those conditions are that the other to be corrected or admonished should be in grave spiritual need, that there is reasonable hope of success, that there is no grave personal inconvenience attached to giving the correction or admonition. These conditions are certainly verified sometimes, though rarely, so that a grave obligation is rare in the case of a private individual. The obligation is present in the case of those who have official charge of others, as parents, Superiors, priests and pastors.

(c) The correction when given should take the form indicated by Our Lord (Matt, xviii. 15), unless a just reason justifies a departure from it. The form indicated is as follows: "If thy brother shall offend against thee, go and rebuke him between thee and him alone. If he shall hear thee thou shalt gain thy brother. And if he will not hear thee, take with thee one or two more, that in the mouth of two or three witnesses, every word may stand. And if he will not hear them, tell the Church. And if he will not hear the Church, let him be to thee as the heathen and publican."

SECTION 5. Sins Against Fraternal Love

The sins against fraternal love are omission of either internal love, or of external acts of charity when prescribed, positive hatred, imprecations, cursing, scandal and cooperation in sin.

1. Scandal

(a) (i) Scandal is any word or deed which is evil or has some appearance of being evil, and is an occasion of sin to another. It is the incitement to sin that is scandal. This is active scandal. Passive scandal is an incitement taken and accepted.

(ii) Pharisaical scandal is passive scandal due to the malice of another, who wrests a good or indifferent act to his own spiritual harm, or affects to be shocked by it.

(iii) Scandal of the weak is scandal taken through ignorance or frailty.

(ά) Scandal is direct if intended; it is indirect if foreseen, but not intended.

(c) Scandal is diabolical if the sin of another is intended, as the spiritual harm of that other.

(rf) Direct or intended scandal is always sinful and has a twofold malice, namely, one against charity, the other against the virtue violated or intended to be violated. Indirect scandal is against charity only.

(e) Pharisaical scandal may be disregarded if one has a reasonable cause for acting. Catholics would have to refrain from innumerable good practices if this sort of scandal had to be avoided.

(/) Scandal of the weak cannot always be avoided but it should be avoided if reasonably possible.

2. Cooperation in the Sin of Another

(a) Cooperation is concurrence with another in his sinful act, as in adultery', or when one is the occasion of another's sin by some act which in itself is not sinful, as when one supplies a burglar with tools.

(Z>) Cooperation is formal when A helps B in an external sinful act, intending the sin itself. It is material, when A helps B to accomplish a sinful act but without intending the sin.

(r) Formal cooperation is always sinful; material cooperation is not sinful if the act of cooperation is not in itself sinful, and if there is a sufficient reason for acting and permitting the sin of the other. But material cooperation with the sinful act of another that will do harm to the Church or State is never lawful, for private advantage is subservient to the public good.

(rf) Material cooperation is immediate when it is actual cooperation in the evil act of another, as to help a burglar to fill his sack with stolen goods. It is mediate, when it is secondary' and subservient to the evil act of another, as to supply a burglar with tools. It is proximate, when it is intimately connected with the evil act of another or greatly helps, as to hold the ladder for the burglar as he mounts to a window for burglarious entry. It is remote, when it has no immediate connection with the evil act, as to give a torch to a burglar to help him see his way to the money safe.

(<?) When one is, for grave reasons, allowed to cooperate with another's evil act, graver reasons are required to justify proximate or IITII ediate cooperation than those which would justify remote or mediate cooperation.

TREATISE VII

CHAPTER I

THE FIRST COMMANDMENT

SECTION 1. Obligation*

By the first commandment we are bound to worship God by Faith, Hope, Charity, and Religion. The acts of religion are devotion, adoration, and prayer.

1. Devotion

Devotion is the prompt will of offering oneself to the worship of God.

2. Adoration

We offer adoration or worship to God first of all and in the highest degree; it involves entire subjection to God, inasmuch as He is Creator of all things and persons, and claims the willing subjection of our whole being. Such absolute worship we offer to God alone. To the Mother of God we offer a pre-eminent worship as to a creature above all other creatures. To the Saints we offer worship as to a creature not as great as that which we offer to the Mother of God.

To the relics of the Saints we offer a relative honour, inasmuch as relics are connected with the persons whose relics they are.

3. Prayer

(a) Prayer is, in general, the raising of the mind to God; in a more particular sense, prayer is petition to God for favours and graces. It is necessary for salvation; it must be frequent—not necessarily daily—persevering, reverent, humble and confident.

(i) We may pray for ourselves, for all the living, for the Souls in Purgatory, but not for those in heaven or in hell.

(c) We may pray for anything that is necessary or useful for salvation, even temporal favours.

(J) All befitting prayer is heard by God. We do not pray to enlighten or move God, but to prepare ourselves to receive those favours which He will grant if we pray as we ought to pray. Prayer may not be infallibly heard for a living person since necessary dispositions may be lacking in his case, nor may it be heard infallibly for a particular soul in

Purgator)', nor for some special need, since we may not be praying for what is profitable for us.

(e) We pray to God, His Blessed Mother, the Saints and Angels, to children who, after Baptism, died before they reached the use of reason, and probably may pray to the Holy Souls.

SECTION 2< Sins Against the First Commandment

1. Sins by Excess

Sins by excess are superstition, idolatry, vain observance, magic, divination, invocation of the devil, spiritualism, and all methods of communicating with the dead, hypnotism if mixed with superstition.

2. Sms iy Defect

Sins by defect are irreverence, the tempting of God, sacrilege and simony.

3. Superstition

Superstition is the giving to a creature the honour which belongs to God alone, or giving God a false or a superfluous honour. It is a grievous sin to offer God a false honour. Superfluous honour paid to God is a grave or a light sin in accordance with the inordinate amount. Usually the amount is not grave and is given in ignorance. Thus it is superfluous honour to worship God by a precise number of prayers, genuflexions, lighted candles, relying on the number alone, like the revolutions of the praying wheel of Indian fakirs. Superfluous acts of worship are apt to appeal only to the ignorant, but all of them must be eliminated, as the canons enjoin (c. 1261).

4. Idolatry

Idolatry is the giving to a creature divine honour, such as offering sacrifices and adorations to the demon, the sun, and the elements. Native tribes offer such worship to evil spirits in order to appease them. Such idolatry is, at least, putting God on the same level as His creatures. Nevertheless a good deal of idol worship is really addressed to a divinity which is thought to reside in or near the idol.

5. Vain Observance

(a) Vain observance is a superstitious act of attempting to obtain some abnormal effect beyond the powers of nature. It is an implicit invocation of the demon. It is exercised by magic, charms, spells, and cabalistic signs. It is a grievous offence against God. Divining for water or metals is not superstitious; the results, when they take place, are regarded as due to natural powers of the dowser. But divining for

criminals is another matter, and is either a foolish trial or attempted magic.

(b) The wearing of medals, crucifixes, scapulars, relics, is not superstitious, though an inordinate confidence in their use may be a fault, not of a serious nature, as in the case of the ill-instructed.

6. Magic

Magic is the employment of actions, signs, incantations, in order to obtain preternatural effects. The magician claims to possess preternatural powers, and his magical arts are associated with an implicit appeal to some unseen powers, usually to a tribal god, and not infrequently to an evil power whom it is wished to propitiate. Christian teachers have great difficulty in weaning native tribes from these practices. Witch doctors do a thriving trade and rely on their being able to terrorize simple natives. They produce truly astonishing results, due to auto-suggestion in their dupes, when the results are not pure deceit. It may be that sometimes the devil has a hand in magic.

7. Divination

Divination is the investigation of the occult by methods entirely disproportionate to the results, most of them expressly forbidden by God or the Church. Augury, the horoscope, cheiromancy, necromancy, oracles, dream omens, are some of the methods employed. Crystal-gazing is a particularly modern method of prying into the past or the future, as also is spiritualism. All such practices, if seriously meant, are sinful, for they are ways of attempting to scrutinize what is hidden from man, and to that extent are attempted interferences with the ways of divine providence. Local Ordinaries must forbid secular clerics, and Religious Superiors, their subjects, to attend seances of radioaesthesia, a species of divination of personal facts. (S.O., March 26, 1942).

8. Invocation of the Devil

Explicit invocation of the devil is a grave offence against God, for it is an avowal that the devil can act independently of God, not to mention the fact that it is communication with the enemy of God and man. Devil worship is common among native tribes and is merely meant to be a method of appeasing an evil spirit. The sin is rare among civilized people, but now and then a case arises of one selling his soul, as it is said, to the devil. The penalty of such an act is sometimes possession by the devil, who is expelled, often with difficulty, by the exorcisms of the Church.

9. Spiritualism

(a) Modern spiritualism is ancient necromancy in one form or another. It is an attempt to call up the spirits of the departed in order to get

information from them as to the nature of their state of life in the other sphere. The medium claims to get into communication with a spirit of the other world through whom information is received by the medium which is communicated to the sitters at the séance. The spirit who communicates is the control, as it is called. This control brings on the scene other discamate spirits, relatives or friends of the sitters. The communications are regarded as a form of revelation of truths concerning existence on the other side. This form of necromancy is forbidden by God (Deut. xviii. 11, 12): "Let there not be found among you any that seeketh the truth from the dead, for the Lord abhorreth all these things."

(6) Spiritualism is no less forbidden today. The Holy Office (April 27, 1917) forbade even passive assistance at spiritualistic seances, even if a protestation was made that it was not wished to have any dealings with the evil spirit. The particular sin committed in such practices is seeking knowledge by means condemned by God and His Church. Apart from the falsehoods, false teachings and blasphemies uttered at most or at least very many seances, there is the ever-present danger to the faith of Christians who, though prompted by curiosity in the first instance, come to put an implicit faith in the so-called communications of the spirits.

10. Hypnotism

( ) Hypnotism is artificially induced hysteria. As a practice, the hypnotizer attempts to induce, and often succeeds in inducing, an abnormal state of mind in the subject similar to sleep, in which the hypnotized person seems to be deprived of his normal characteristics and becomes an automaton, completely obedient to nearly every suggestion of the operator. It is, however, well established that the hypnotized person will not respond to those immoral suggestions which are abhorrent to him in his normal state. Hypnotism, being based on auto-suggestion, has been generally abandoned for waking suggestion.

( ) There is no radical objection to hypnotism as a curative agency, but superstition must not be allowed to insinuate itself, nor may the hypnotizer claim preternatural powers. Since the hypnotic state is a natural phenomenon, there is no objection to one submitting to it for a good reason, provided that the operator is entirely reputable, and that there are witnesses of good character during the hypnotic treatment.

11. Tempting God

(a) To tempt God is to put to a nractical test one of God's attributes, such as His power or mercy. To put God on His trial, as it were, is a challenge to God to prove His existence or power. This sin is a great insult to God.

(ά) Implicit tempting of God is to make trial of God by implication, as to expose one's life needlessly, with the unfounded expectation that God will deliver one from the danger. This sin is also a grievous challenge to God, but recklessness in some slight matters together with an expectation of God's help may be a venial sin only.

12. Sacrilege

(a) Sacrilege is the violation of a sacred person, place, or thing. The essence of this sin is that a dedicated sanctity is violated, that is, the peculiar sanctity of a dedicated person, place or thing, is violated.

(ὁ) Sacrilege is personal if violence is done to clerics or Religious, if an injury is done them, if civil or criminal action is taken against them in ways forbidden by the canons, if a sin against chastity is committed, internally or externally, by or with a person in Sacred Orders, or one who has taken a public vow of chastity, or probably a private vow of chastity.

(r) Sacrilege is local if a sacred place, consecrated, or blessed, or designed for the burial of the faithful, is violated. Violation takes place by theft of church property, or of private property committed to the keeping of the Church, and probably by any theft in a church; by offences against the immunity of a sacred place; by sinful actions repugnant to the sanctity of a sacred place, such as the destruction of a church, homicide, or suicide, marketing, banqueting, dancing, shows, plays, stabling, serious and sinful shedding of human blood, and the burial of an infidel or an excommunicate in a consecrated cemetery.

(</) Sacrilege is real if sacred things are violated. It is committed by abuse of the Sacraments, Holy Scripture, sacred vessels, relics, images of the Saints, altars, sacred edifices, ceremonies, theft of church property, or destruction of it.

13. Simony

Simony may be against divine or ecclesiastical law.

(a) Simony against divine law is committed if something intrinsically spiritual, such as a Sacrament, jurisdiction, consecration, indulgence, is bought or sold for a temporal price, or if the revenues of a benefice are bought or sold, or if what is spiritual is the object, even partial, of a contract.

(ά) Simony against ecclesiastical law is committed when exchange is made between things that are spiritual or temporal, if such is forbidden by the Church owing to the danger of irreverence.

(c) Simony against divine law is always grievously sinful. Simony against ecclesiastical law is usually grievously sinful, but it may be light, if the exchange is tiivial, unless even in this case the Church has seriouslv forbidden it.

(d) Simoniacal contracts are invalid, and offices secured by simony must be relinquished. All those who promote to Sacred Orders or arc promoted through simony, or who administer or receive the Sacraments simoniacally, are suspected of heresy, and il' they are clerics they incur suspension reserved to the Holy See (c. 2371). All simony in relation to ecclesiastical offices, benefices and dignities is punished by excommunication simply reserved to the Holy See (c. 2392, 1).

CHAPTER II

THE SECOND COMMANDMENT

SECTION 1. The Precept

By the second commandment we are obliged to speak with reverence of God and all holy persons and things, and to keep our lawful oaths and vows; we are forbidden to utter false, rash, unjust, or unnecessary oaths, and also blasphemy, cursing and profane words.

SECTION 2. Blasphemy, Cursing, Profanity

I. Blasphemy is contumelious language against God. It is direct if God's dishonour is intended; it is indirect if God's dishonour is not intended but is foreseen. Both kinds of blasphemy are grave sins.

2. Cursing others, or uttering imprecations on them, is of its nature a grave sin against charity; if it is public and in presence of the person cursed, it is contumely, which is a sin against both justice and charity.

3. Profanity is the employment of words that are irreverent towards God or holy persons or things. If it is contemptuous of God, or of holy persons or things in their relation to God, it is a grave sin. It is also scandalous, especially to the young. Habitual profanity sears the conscience and corrupts the minds of hearers.

SECTION 3. Oath and Adjuration

I. An oath is the invocation of God to bear witness to the truth of what we say or promise. If used legitimately and reverently, it redounds to God's honour. That an oath may be lawful, it must express what is true, that is, we must be morally certain of the fact of our assertion or the sincerity of our promise; it must be just, that is, a promissory oath must regard what is morally lawful, an assertory one

must endorse an assertion that is not sinful; it must have a sufficient reason. Perjury is a grave sin, as also a promissory oath to do what is seriously sinful.

2. Adjuration is the employment of the name of God, or of a holy person or thing, to confirm a command or request. Like an oath, it must be made with truth, justice and judgment.

SECTION 4. Vow

1. A vow is a free, deliberate promise made to God to do something that is possible, morally good, and better than its voluntary omission or its contrary.

2. Vows are public, private, solemn, simple, personal, real (a vow to make a gift), mixed (including both personal and real elements), absolute, conditional, determinate, disjunctive, reserved.

3. Any person may take a vow if he has the use of reason, is not forbidden by law, and does not prejudice the rights of others.

4. Mistake or error invalidates a vow if it affects the substance or a substantial circumstance of the vow. Religious vows are invalidated only if the mistake was substantial.

5. A vow taken under the stress of grave and unjust fear is invalid; probably also if the fear was light and unjust and the only inducement for taking the vow.

6. The matter of a vow must be physically and morally possible; it must be good and relatively better than its contrary or its voluntary omission; it may not be directly contrary to greater possible good, such as the vow to marry, but this vow is permissible if it is necessary to safeguard reputation; what is already a matter of obligation can be matter for a vow, as chastity.

7. The obligation of a vow is one of religion; its gravity depends on both matter and intention. Grave matter can be vowed under light obligation unless the Church forbids this, or the nature of the matter rules otherwise. Slight matter cannot be vowed under a grave obligation.

8. A vow binds only the person who took it. The unfulfilled obligation of a real vow passes on to the heirs of him who took the vow. This obligation is derived from law (c. 1310). A real vow can be fulfilled by proxy, if the person who vowed consents or subsequently ratifies the act. In a disjunctive vow, if one alternative has become impossible, the other alternative need not be fulfilled. The vow of a society does not bind future members of that society, but they can be bound to observe the vow by ecclesiastical law (S.G.G. Jan. 18, 1936).

9. Delay in fulfilling even a grave vow is not a serious sin unless the vow greatly depreciates by the delay, or there is serious danger of forgetting the vow, or of not fulfilling it at all.

io. The obligation of a vow ceases by lapse of time, if a term had been fixed for its fulfilment, by substantial change in the matter of the vow, by failure of the conditions on which the vow depended, or of the reason for which it was taken, by suspension, annulment, dispensation, commutation.

SECTION 5. Annulment of Vow

1. A vow is directly annulled if it is extinguished by a Superior; it is indirectly annulled if it is suspended for a time.

2. One who has legitimate dominative power over the will of him who takes a vow can directly annul the vow validly, and for a just reason licitly also (as a father, mother, guardian, paternal grandfather, in regard to the children under the age of puberty). One who has power over the subject matter of a vow, can suspend the vow, if its fulfilment would prejudice his or her rights (husband and wife in regard to marital duties).

3. A religious Superior can annul the private vows of his subjects taken after profession, except the vow of entering a stricter Institute. The private vows of novices, however, can be annulled by the religious Superior only if they interfere with his government of the house.

4. Vows taken before religious profession are suspended during life in religion.

SECTION 6. Dispensation of Vow

1. Dispensation of a vow is its absolute extinction made in God's name.

2. The following can dispense in vows:

(a) The Pope in all vows.

(ά) In private vows not reserved to the Holy See.[1]

(i) The local Ordinary can dispense his subjects and visitors to his diocese *{Peregrini).*

(ii) The Superior (even local) of a clerical exempt Institute in the case of the professed, novices, and others living in the house for service, education, hospitality, or health (c. 514).

(iii) Those delegated by the Holy See, and those Religious who have the privilege of dispensing.

SECTION 7. Commutation of Vow

i. The commutation of a vow is the substitution of some matter other than that of the vow and under the obligation of vow.

[1] There are two private vows reserved to the Holy See, namely, that of perfect and perpetual chastity, taken absolutely and after the eighteenth year completed, and that of entering a religious Institute of solemn vows, with the same limitations (c. 1309).

2. This commutation can be effected by a Superior into what is less onerous than the matter of the vow; it can be effected by him who took the vow into what is better or equally good.

3. If the substituted matter determined by a Superior becomes impossible, return need not be made to the original vow, but if the substitution had been made by him who took the vow and the substituted matter became impossible, the original vow still binds.

CHAPTER III

THE THIRD COMMANDMENT

By the third commandment we are bound to keep the Sunday holy by hearing Mass and resting from servile works.

SECTION 1. Hearing Mass

1. All the faithful who have come to the use of reason and have completed the seventh year of age are bound to hear Mass on Sundays and holy days of obligation.[1] To hear Mass as prescribed, one must be bodily present in the proper place, be attentive to Mass, hear the whole of it, and hear it in the correct liturgical rite, that is, a Catholic rite.

2. Bodily presence means that the worshipper must be either in the church itself, or if outside of it must be near enough to be regarded as present morally, that is, within forty paces of the church, and even more than that if the body of worshippers form one united whole, in which case all those outside are morally one with those inside.

3. The legitimate place for hearing Mass is a church or oratory, public or semi-public, or a private oratory in the case of those who have the privilege of such an oratory, or in a private mortuary chapel, or on shipboard where a place has been set apart for Mass on behalf of the crew and passengers, or in the open when Mass is legitimately celebrated in the open. A chapel or altar on shipboard that is not a fixed place for Mass is neither a public nor a private oratory, but is merely a portable altar.

4. The intention of hearing Mass must be at least a virtual one. The attention necessary and probably sufficient is some confused attention to what is going on, provided that nothing is done that

[1] And all who have come to the age of reason, for it is a matter of the chief act of the external and public worship due to God (S.G.C., July 14, 1941).

excludes internal attention to Mass. But the faithful should be exhorted to give their actual attention to Mass.

5. The whole of the Mass must be heard from the first sign of the cross made by the celebrant to the beginning of the last gospel. If a very' small part of the Mass has been omitted, not, however, including one or both consecrations, there is no need to hear another Mass nor the equivalent of the part omitted. If a small part of Mass is missed, that part must be supplied under venial sin.

If a notable part has been omitted, that is, a third part, such as from the beginning of the Mass up to the beginning of the offertory, or a smaller important part, such as the two consecrations or even one of them, the part omitted must be made up, but the consecrations and the communion must be in one and the same Mass. The precept cannot be fulfilled by being present at complementary parts of two Masses being simultaneously celebrated.

6. No vocal or mental prayer is prescribed, but the faithful should be urged to use a prayer book, unless they are able to meditate.

7. A moderately grave inconvenience to mind or body, or temporal harm to oneself or another, excuses from the precept. A distance from the church of three miles, or one hour's walk, excuses, and less than that if it entails moderately grave inconvenience, as it would in bad weather or on bad roads or in cases of infirmity.

SECTION 2. Resting from Servile Work

1. The work that is forbidden comprises servile work such as is done by manual workers, formal legal procedure, and civil occupations. What constitutes strictly servule work can be best determined by custom and the judgment of good Christians. Servile work remains servile though done gratuitously or for recreation or pleasure. It is the nature of the work that matters. Work that is not servule, such as typewriting, does not become servule because money is earned by it. But in that and similar cases, if such work is done on a large scale, as would be the case in large offices, it seems that work of that kind and on such a scale would be servile; at all events it would be scandalous. It is commonly held that arduous servile work for about three hours violates the precept seriously.

2. Certain causes excuse from observance of the precept. The following are examples: necessity of body or mind, considerable public utility, avoidance of idleness if it is a dangerous occasion of sin, piety to God, as to make what is immediately necessary for divine worship, great help to others, as waiting on the sick, legitimate custom, and dispensation by legitimate authority. A confessor cannot dispense from the precept, local Ordinaries and parish priests can do so (c. 1245, §1).

CHAPTER IV

THE FOURTH COMMANDMENT

SECTION 1. The Precept

The fourth commandment commands us to honour father and mother. It explicitly regards the obligations of children towards their parents; implicitly it regards mutual relations in conjugal and domestic life and social and civic relations with others.

SECTION 2. The Duties of Children

1. Children are bound always to show love, respect and honour to their parents, and obedience also in all matters relating to conduct whilst they are in tutelage, and even after that period, so long as they live with their parents under the authority of the father.

2. (a) Children sin against the duty of love by hatred, asperity, wishing evil to parents, not assisting them in their spiritual or temporal needs, not fulfilling their testamentary dispositions.

(6) They sin against respect and honour by unjustly striking their parents, or even raising the hand to strike, causing them grief, vituperating them, despising them in poverty, not acknowledging them in the presence of others, which is a species of snobbery.

(r) They sin against obedience by disregarding their just commands in domestic life, and in -what regards good moral conduct, or spiritual progress, where these matters are part of a parent's duty to secure.

3. Though children should not contract marriage against the reasonable dissent of parents, their marriage contrary to their wishes would be valid but sinful. In the choice of a life of perfection, as that of Sacred Orders or religion, a child of sufficient judgment has the right to make his or her own choice, but the actual undertaking of such life must be deferred if parents are in grave need of children's help.

SECTION 3. The Duties of Parents

I. Parents are bound to procure for their children their religious, moral, physical, civic, and intellectual education, and to make reasonable provision, according to their means and their state of life, for the temporal welfare of their children. Moral education involves timely instruction in matters of sexual conduct, an aspect of youthful

education that is very necessary today (Pius XII, *Allocution to Catholic, mothers in Rome,* Oct. 26, 1941).

2. Parents arc seriously bound to secure the Christian, education of their children and particularly their catechetical instruction. This is usually secured in Catholic schools, but it must be supplemented at home, for children who have just left school will be in danger of falling away from religious practices unless instruction is continued. Parents should make a serious effort to accompany their children in going to Mass and instructions. Parents are not allowed to send their children to non-Catholic schools without the Bishop s permission, and even with that permission children must continue to learn tire Catholic faith, else there will continue to be, as there is, a lamentable falling away from the Church and a continuous leakage from the ranks of Catholics.

3. Parents are bound to fit their children to take up some suitable vocation in life, but may not restrict the reasonable choice even in

4. Since the co-education of boys and girls together after the ages of puberty leads to immorality, parents are bound to refrain from sending their growing children to such schools, if others are available, unless co-educational schools are permitted by ecclesiastical authority. This subject is dealt with later.

SECTION 4. Mutual Duties of Other Relatives

Close relatives are mutually bound by special ties of love and have special duties towards one another. When parents are dead, other relatives must take their place, namely, grandfather, grandmother, uncle, aunt, brothers and sisters. Brothers and sisters are specially bound to show mutual love and to help one another in grave need.

SECTION 5. Husband and Wife

"Let women be subject to their husbands as to the Lord, because the husband is the head of the wife as Christ is the head of the Church. . . . Husbands love your wives, as Christ also loved the Church and delivered Himself up for it" (Ephes, v. 22-25).

1. The husband has authority, both moral and legal, over the wife in all matters that pertain to conjugal and domestic life.

2. Husband and wife are bound to love one another. If love grows cool, they are bound to re-create it, for loveless marriages lead to indifference, estrangement and divorce.

3. Husband and wife are bound to cohabitation, unless for just reasons they agree to temporary separation; to mutual maintenance,

though this duty falls primarily on the husband, and to render reasonable marriage dues when seriously asked for.

4. The husband is bound to administer his property wisely and economically, in order to maintain in decent comfort his wife and children, to have a care for the Christian way of life in the family circle, prudently to correct wife and children when necessary The wife is bound to show reverence and obedience to the husband in all matters that pertain to conjugal and domestic life when there is no question of sin. She must use her husband's money economically. She has no legal right to put aside any of the money allowed her by her husband for domestic purposes, for the money remains his. But if the husband neglects to make provision, when he could, for the family, the wife has a moral right to put aside a certain amount, if thereby she does not stint husband or children of what is necessary for present sustenance.[1]

5. Good Catholic parents will be most careful about the moral and religious conduct of their children. They should make the home a real home, to which the children willingly return, and such that it exercises a counter-attraction to the streets. They will have the night prayers said in common, getting the children home betimes, not allowing them to return home habitually late at night and making the home merely a place for eating and sleeping. They will also consecrate the home to the Sacred Heart, and recite prayers before the statue or picture. They may then hope to receive the blessings promised, and avoid the disasters of the home that is indifferent to Catholic practices.

SECTION 6. Employers and Employed

1. The contract of service, if just, must be faithfully fullfilled by both employer and employed. If circumstances have entirely changed so that the terms of the contract have become too arduous, each party must have recourse to law, unless both agree to avoid the obligations undertaken. Unilateral repudiation of contracts, as of treaties, too common a phenomenon today, results in grave harm to the common good and a cynical indifference to every agreement. Such a procedure not only violates justice, but brings moral principles into ridicule.

2. Employers must see to it that conditions of working are decent and tolerable, and that employees do not indulge in indecent talk and loose behaviour, to the scandal and corruption of the young worker. Since these things go on, the Catholic worker must be prepared for them and uphold prudently and so far as possible Christian standards. But the contest is hard and ever-present.

[1] By the Inheritance (Family Provision) Act, 1938, the Court can assign portions of an estate to the wife and certain relatives of a deceased man, who made no provision for them in his Will.

3. A just wage must be given to the employee in return for an honest day's work. The honest work is as obligatory' as the just wage. The legal wage is usually a fair one, but where there is no settlement by law, the just wage is what will be sufficient in the case of a normally good, frugal and careful worker to maintain himself, his wife and all his children. There is no justification in limiting the just wage to what will maintain a man, his wife and three children, for the worker must support the family which he has. There is no other source for him except his labour. The wage must suffice not merely for the bare maintenance of the family, it must be sufficient to allow a man to lay by such amounts as will be needed for incidental expenses, such as are necessary for reasonable recreation, ill-health, holidays, unless holiday pay is already given, marriage, and death, for all such expenses must be covered by the mans resources that he may lead a decent human life. But great difficulty is experienced in adjusting wages as between the married and the unmarried. Consequently some system of family allowances must be imposed by the State, since that adopted by many employers is much too precarious and limited. In determining what is a just wage an employer may take into account the assistance given by the State.

4. Λ strike is an organized cessation from work by a body of men with the object of forcing a consideration of their claim to, or a grant of, more wages or better conditions of working. The simple strike is set going by a number of men suffering from a grievance, often just, sometimes unfounded or unjustified. The sympathetic strike is set going by one body of men for the remedy of a grievance of another body of men. The general strike is set going by practically all the workers, in order to bring all industry' to a standstill, with the object of bettering the workers' conditions or of seizing political power.

5. That a strike may be justified there must be a just reason for it, the benefit to be obtained by it must be at least as great as the evil effects it produces,"the means employed must be just. No man or body of men are justified in pressing their claims or the claims of their class for a small benefit, which is wholly disproportionate to great harm done to the common good.

When all necessary conditions are fulfilled, a strike is a legitimate act of self-defence. But the strike must be an official one. Unofficial strikes are rarely justified; but there are exceptions, as when neither employers nor union officials take notice of a real grievance, or spend too much time discussing the case whilst the men are suffering.

6· A sympathetic strike requires much more justification than the simple strike. Though the workers in one trade may repel injustice done to workeis in another trade, the injustice to be repaired must be very evident. The solidarity of the workers is, indeed, a thing to be

commended and defended, for there is a solidarity of employers which is also defensible, and what is just for one set of men is just for another set. Compulsory arbitration appears to be the only remedy for adjusting the mutual rivalries of employers and employed, but it is a desperate remedy in a democracy.

7. The general strike requires the greatest justification, and though theoretically it might be defended, in point of fact it produces such immense evils to innocent people, that it is hardly possible to imagine any reason that would justify it short of a legitimate revolution. The too common phenomenon of a minority seizing political power by force cannot be justified at all.

8. A lock-out by employers must be ruled in the same way and by the same principles as strikes are ruled.

9. If a strike is just, peaceful picketing, as it is called, is justifiable, but it must be peaceful not violent, for a body of men have no right to offer violence to others except in self-defence when other means have failed. Nevertheless when a strike is just, a few 'blacklegs,' as they are called, may be peacefully prevented from breaking the strike.

SECTION 7. Teacher and Pupil

1. Teachers are bound to make themselves fit to teach and to continue fit. Every pupil is paid for by someone, so that a teacher has personal obligations towards every pupil of the class, even the most ill-favoured and the dullest.

2. The teacher is the delegate of the parents and from them derives the right to teach; he is not a servant of the State in the sense that he is responsible to it alone. The teacher must treat every pupil with respect and love. Pupils in their turn must show their teachers reverence, obedience and love. Thus school will be a continuation of the family circle, instead of being, as it is thought to be by many, a State institution with a merely civil aspect.

3. The State is entitled to see that citizens receive due education for citizenship, but may not interfere with or assume parental responsibilities, unless parents fail in their duty. Parents have the right to choose the school for their children if it is efficient, though local circumstances may restrict the choice. Catholic parents have the right to place their children in Catholic schools, with a Catholic atmosphere and Catholic teachers.

SECTION 8. State Authority

I. Civil authority to govern is derived from God: "Let every soul be subject to higher powers; for there is no power but from God and those that are, are ordained of God" (Rom. xiii. 1).

"Hallowed in the minds of Christians is the very idea of oublie authority, in which they recognize some likeness and symbol, as it were, of the Divine Majesty, even when it is exercised by one unworthy - - - the sovereignty of the people, and this without any reference to God, is held to reside in the multitude, which is doubtless a doctrine well-calculated to flatter and inflame men's passions, but which lacks all reasonable proof and all power of ensuring safety and preserving order. Many hold as an axiom of civil jurisprudence that sedition may be rightly fostered. For the opinion prevails that princes are nothing more than the delegates chosen to carry out the will of the people; whence it necessarily follows that all things are as changeable as the will of the people, so that the risk of public disturbance is ever hanging over our heads." (Pope Leo XIII, Encyclical Letters *ImmortaU Dei,* 1885, and *Sapientia Christiana,* 1890).

2. Even without the previous consent of the people, a ruler can become legitimate when the common good demands it, for when opposition to the ruler becomes useless and would cause more harm than good, the people must acquiesce in his rule if it is just.

. Thç will of the legislature expressed in law, statute, decree, or regulation, can bind citizens as moral laws, that is, in conscience, but

aw inion of jurists, and the interpretation of law by die majority of loyal citizens.

4. The reason why civil authority binds the conscience of the individual citizen is that political society is a necessity of nature; it is based on the nature of man, and is therefore derived from God. Society is a necessity of man because he must normally live with others, both for the satisfying of his needs and the achievement of his natural perfection. The laws which civil society imposes on citizens are designed to foster the common good of society, and they are necessary for the perfection of society itself. Consequently such civil law binds the conscience inasmuch as the purpose of society must be attained, and civil laws that are just are the necessary and only means thereto.

The principles are exactly the same as those which apply to man in his observance of Natural law. It is the final end of man and of society that determines the obligation of employing those means that arc necessary for the attainment of the end. The end being necessary, the essential means are also necessary. But sacred as human society is, human freedom is sacred also, so that the rights which nature has given to man must be respected by all law; law which interferes with or abolishes those natural rights of man which he is able to exercise without doing harm to the rights of other men is unjust and void.

It is an error of the first order and one fraught with terrible consequences to maintain that man is made for the State, that he must

be subject to it in all things, and that he exists only for the benefit of society. Such a view inverts the right order, for man is born endowed with some rights that arc absolutely unassailable. He has his own end to attain quite apart from the end of society. Society might perish entirely, but man would still be human with his own rights and responsibilities.

Viewing man therefore vis-à-vis the State, one must say that every political system which interferes with the natural rights of man—and there have been many such systems established in these days—is self-condemned. There is no need therefore to examine the false polities of recent times, such as Liberalism, Communism, Socialism of the extreme type, Marxism, Fascism, Nazism. The first-named theory sets man in an autonomous position, making him the fount of all obligation. It essentially leads to atheism and was condemned by Pope Pius IX *(Syllabus,* nn. 17-80). The other systems reduce man to a degree of slavery which creates great unhappiness in the majority of people, and it may be confidently asserted that man will eventually throw off the shackles put on him, for he will not remain a slave all the time.

APPENDIX: COMMUNISM

The sacred Congregation of the Holy Office issued (July I, 1949) the following replies to queries on Communism:

1. Is it permissible to be aggregated to the Communist faction, or to show it favour?

No, for Communism is materialistic and anti-Christian. The leaders of the Communists, though sometimes professing that they do not oppose religion, do, in fact, show themselves by their teaching or activities, to be hostile to God, true religion and the Church of Christ.

2. Is it permissible to publish, defend, or read, or write in the books, periodicals, magazines, leaflets, which favour the teaching or activity of Communists?

No, for they are forbidden by law(c. 1399).

3. May those Catholics be admitted to the Sacraments who knowingly and freely do what is stated in nn. 1,2?

No, in accordance with the ordinary rules of refusing to give the Sacraments to such as are not disposed to receive them.

4. Do Catholics who profess the materialistic and anti-Christian doctrines of Communists, and do those especially who defend them and contend for them, incur excommunication specially reserved to the Apostolic See, as being apostates from the Catholic faith?

Yes.

Subsequently (Aug. 1I, 1949) two queries concerning marriage with a Communist were put and the replies were as follow:

1. Does the exclusion of Communists from the Sacraments include their exclusion from the celebration of marriage?

2. Are the marriages of Communists to be ruled by canons 1065,1066?

The Canons 1065-1066 lay down the rule that (a) the faithful are to be deterred from marrying those who have notoriously apostatized from the Catholic faith, though they have not passed to a non-Catholic sect, nor are aggregated to condemned societies, (A), the parish priest is not to assist at such marriages without consulting the Ordinary who, taking all circumstances into account, will be able to permit him to assist for a grave urgent reason, provided that in the judgment of the Ordinary sufficient guarantee is given of the Catholic education of all the children, and the removal of the danger of perversion of the Catholic party', (c) and provided that if a public sinner, or one notoriously under censure, has refused to go to confession, or to be reconciled with the Church, the parish priest may not assist at such marriage except for a grave urgent reason, and, if possible, after submitting the reason to the Ordinary.

The reply to the query was that a priest could assist at the marriage in accordance with the canons 1065, 1066, but in the case of the marriages of those mentioned in the decree of July 1, 1949, the principles of canons 1061, 1102, 1109, §3, must be observed. The canons referred to are as follows:

Canon 1061 refers to the guarantees. Canon 1102 forbids all sacred rites in a mixed marriage, though the Ordinary may permit some of the rites if he apprehends that a grave evil would ensue from his prohibition, but he may not allow a Mass to be celebrated that even seems to have any relation to the marriage. Canon 1109, §3 rules that marriage between a Catholic and a non-Catholic must be celebrated outside the church, unless the Ordinary' judges otherwise to prevent great evils arising.

CHAPTER V

THE FIFTH COMMANDMENT

SECTION 1. The Precept

The fifth commandment forbids unjust killing and everything that would lead to it, as wounding, mutilation, striking, anger, hatred, revenge. The commandment enjoins the preservation of our lives and the lives of those whose temporal care is committed to us.

SECTION 2. Preservation of Life

Man has not complete dominion over his life, for it has been given to him by the Creator of nature, in order that he may serve Him and achieve his final destiny. Man must preserve his life, however, by reasonable means, not by expending exquisite trouble over it, unless his life is very important for Church, State, or family. In addition to the obligation of safeguarding his life, man is bound to refrain from shortening it. Workers in some occupations undoubtedly risk their lives and shorten them, but they do so for necessary or very useful reasons. Members of the fighting forces run great risks, but do so because legitimately ordered to do so, and they rightly obey for the service of their country, whose continued existence or security takes precedence over the personal existence and security of the citizens, provided that the means employed are not sinful.

SECTION 3. Suicide

1. Man may not legitimately destroy his own life by a positive act on his own initiative, for he would then be frustrating the divine purpose which God had in giving him life and acting as if he had dominion over his own life. But man does not commit suicide in the strict sense when, ordered by legitimate authority to be his own executioner for a crime worthy of death, he executes himself. Man is also bound to take reasonable care of his life; his neglect of the duty, if it results in death, is equivalently suicide.

2. A last will may contain a clause to the effect that the heart is to be pierced, or a vein opened before burial. If either is to be done after a death certificate has been issued, it may be done; but if the testator wished himself to be killed before burial, his intention is suicidal and may not be complied with.

3. The hunger strike, as it is called, intended to be carried on till death ensued, with the intention that death should serve as a lever to move public opinion, however good the cause may be, is regarded by most authors to be indefensible. It appears true to say that in the case, death is intended as a means to an end. Those authors who hold the contrary have not, so it appears to the writer, rebutted this argument.

The refusal of the early Christians to eat food that had been offered to idols was merely to refrain from a grave repudiation of their faith, for the act of eating was to be construed into a denial of the faith. They could not commit idolatry in order to preserve their lives. They allowed themselves to die rather than commit grievous sin. Obviously they were not obliged to take the food offered to them.

SECTION 4. Killing—Direct

1. No private individual has dominion over the life of another and may not, under any circumstances, directly kill an innocent person. The State has authority to put criminals to death if the crime is certain, worthy of death and proved by judicial procedure. In the case of capital punishment, time must be allowed to the condemned to prepare spiritually for death. Lynch-law is approval of murder.

2. As direct murder is forbidden, so every act that directly leads to death is forbidden, as the shoi tening of an innocent life by euthanasia, the administration of lethal drugs, starvation, torture, physical or mental.

SECTION 5. Killing—Indirect

1. Killing is indirect when it is the result of an act which has an antecedent or an equally immediate effect other than death. Killing in self-defence is indirect if self-defence is the immediate result of the defensive act. Everyone has the right to defend his life against unjust aggression, and he may defend it with all necessary violence. If more violence is employed than is necessary, the excess is blameworthy, but in sudden emergencies it is impossible to balance the greater and the

2. We may defend another who is being unjustly attacked with the amount of violence that is necessary. We may also defend with all necessary violence the bodily integrity of oneself or another, and even material possessions of considerable value. A State may also go to the rescue of another State unjustly attacked. The principle of non-intervention in such cases is false and condemned by Catholic teaching (Pope Pius IX, *Syllabus,* pr. 62).

3. To justify extreme violence in resisting unjust aggression with the result of the death of the aggressor, certain conditions must be fulfilled, namely, the unjust aggression must be actual or very imminent, the act of violent self-defence must be necessary as the only means available at the moment, the matter at issue must be life, bodily integrity, or very considerable possessions, not merely one's reputation (cf. Pope Innocent XI, pr. d. 30).

SECTION 6. Mutilation

I. Since the members of the body and its functions are given by God in order that we may use them to achieve the divine purpose and our own perfection and destiny, man may not mutilate his body or destroy any of its functions except to save his life or to safeguard his health, since continued life and health are better than some bodily

member or function which man can go without. Similarly man may not mutilate an innocent person except with that person's consent for the safeguarding of that person's life or health.

2. Sexual sterilization is mutilation, and is treated later (cf. Sect. 9, in/ra).

SECTION 7. Duelling

1· & duel is a pre-arranged fight with lethal or even dangerous weapons, between two persons on their own initiative. It is gravely sinful and contrary to both revealed and Natural law. A duel engaged in on the understanding that it shall cease as soon as one party is even slightly wounded or when blood is drawn, is also forbidden, because there is never an excuse for such duels; even if the intention of the duellers is to inflict only slight wounds, it can never be known with certainty what the result will be. A duel undertaken by the just order of a public authority—and this is not really a duel in the strict sense—is permissible if it takes the place of just self-defence. If a Court of Honour decides that a duel should be fought, it may not be undertaken.

2. One who is killed or dies of wounds received in a duel is to be deprived of ecclesiastical burial unless, before death, he gave signs of repentance (c.1240).

3. JDuellists, those who challenge, those who afford assistance or show favour to a duel, those who deliberately assist as spectators, public officials who permit, or do not, so far as they can, prevent, a duel, whatever their rank, incur excommunication simply reserved to the Holy SecT Duellists and their seconds incur legal infamy (c. 2351).

SECTION 8. War

i. War is an armed conflict between two sovereign states. Every „just war is defensive; if it is not defensive in some way, it is unjust. Every state has the right, as each individual has, of self-defence against unjust aggression. The pacifist, that is, one who will not, under any circumstances, fight for his country in a just war, if legitimately ordered to do so, is an enemy of his country, and of the human race, for his principles would lead him to be passive to the destruction of all ordered society. His Holiness, Pope Pius XII, in an Allocution on Christmas Eve, 1948, said: "Complete pacifism is indefensible. . . . There are rights which may and must be defended against unjust aggression . . . the commandment of peace is a matter of divine law. Its purpose is the protection of the goods of humanity, inasmuch as they are gifts of the Creator. Among these goods, some are of such importance for society, that it is perfectly lawful to defend them against unjust aggression. Their defence is even an obligation for the

nations as a whole, who have a duty not to abandon a nation that is attacked."

2. That war may be justified, the following conditions must be fulfilled:

( ) It must be declared by the supreme authority in the State.

( )^The reason for undertaking war must be just; it may not be undertaken except in self-dçfençe, and for a sufficient reason. In this context His Holiness, in the Allocution referred to, said: "The Christian will for peace is easily identified. Obedient to the divine precept of peace, it will never turn a question of national prestige or honour into an argument for war, or even for a threat of war. It is very careful to avoid recourse to the force of arms in the defence of rights which, however legitimate, do not offset the risk of kindling a blaze, with all its tremendous spiritual and material consequences."

(c) Its conduct must be in accordance with both Natural and international laws.

(J) It may not be protracted beyond the limits necessary for self-defence, or to secure reparation, and when concluded, the terms of peace must be just.

(e) It must be the only available means of securing self-defence.

(/) War may not be undertaken if harm will come to nations or the human race out of all proportion to the benefits that are hoped for. Consequently it appears that modern war, such as we know it, needs much greater justification than the wars of the past, which allowed civilians to continue to lead their normal lives without being exposed, as they are today, to sudden death from the air.

(g) The contention that in total war, as it is called, the death of all and sundry, including infants, the sick, the infirm, the aged, children in schools, and every inoffensive national, may be directly intended, is a contention that would justify wholesale murder *of* the innocent. The use of the atomic bomb, even in a just war, is condemned on moral grounds, because its deadly effects on innocent people are usually out of all proportion to the destruction it causes to legitimate military targets.

SECTION 9. Medico-moral Problems

1. Operations During Pregnancy

(a) It is morally wrong directly to extinguish the life of an infant *in utero,* or an embryo, or a female ovum probably fertilized, in order to benefit the mother. Indirect interference is another matter, as will be seen in the following pages. The aforesaid statement is merely a way of saying that evil may not be done. It is, indeed, praiseworthy to save a mother's life; it is an evil act directly to destroy, or even imperil, the life of her child, actual or potential.

(b) Medical action during pregnancy, when the result intended and produced is direct abortion, is morally evil in a grave degree. If, however, necessary direct treatment of the mother for her serious condition involves the incidental death of the fetus or infant *in utero,* that treatment may be given provided it is the only treatment practically possible at the moment.

(c) Evacuation of the pregnant womb, or the extraction of an inviable fetus from it, is a direct attack on the life of the fetus and is morally unjustifiable.

2. Hydramnios

(a) Hydramnios is the condition of an excessive amount of amniotic fluid within the membrane which encloses the fetus in the womb. This amount may be so great as to imperil the mother's life. The pressure which the fluid exerts on the mother's organs must be relieved. Formerly a common practice was to rupture the amniotic membrane, let the waters flow out through the vagina, and so relieve the pressure. This procedure led to inevitable abortion, so that if the infant was inviable the operation was an attack on the environment of the fetus which resulted in its death.

(ò) Theologians were at great pains to find a legitimate defence of this procedure. Some maintained that the membrane could be legitimately pierced; others denied this. Fortunately, surgical skill has succeeded in devising a procedure which has resolved the moral problem. It is that of tapping the uterus through the abdomen below the sternum, repeatedly if necessary, until term. The merit of the procedure is that some of the fluid may be withdrawn from the amniotic sac without the rest flowing out, for when the needle is withdrawn, the tissues slide back over one another, thus preventing any further outflow.

3. Placenta Praevia

(a) The placenta is a double vascular structure, one fetal, the other maternal, firmly adhering to the wall of the uterus; from this placenta the embryo derives sustenance and the oxygenation of its blood. When the placenta is implanted partially or entirely on the lower uterine segment, it is termed *placenta praevia.* The placenta cannot stretch, so that when the segment of the womb to which it is attached stretches, the two are torn apart, which results in bleeding. When the placenta covers the *os uteri,* there is great danger to both mother and child.

(Z>) The moral problem is to treat the condition without directly risking the life of the child. Consequently the Caesarean section, if possible under the circumstances, presents no moral difficulty if the child is viable. Apart from the section, if plugging the vagina and cervix is sufficient in order to check the bleeding, it seems to be a

defensible procedure even if fatal to the child, because the purpose of this procedure and its immediate effect is to check the bleeding. The incidental and secondary effect, the death of the child, may be permitted.

4. Fibromyomata

Fibromyomata are growths in the wall of the uterus; profuse bleeding from them may endanger the life of the mother. If the growths must absolutely be removed, the operation for their removal from the mother appears to be defensible if the fetus is not directly interfered with. If the entire pregnant womb must be removed together with the contents, such an operation seems defensible, for the fetus is not thus directly attacked.

5. Carcinoma of the Cervix Uteri

When this condition occurs during pregnancy, the mother being operable, if removal of the uterus is considered necessary', it may be removed, provided that an inviable fetus is not first directly dealt with. If the infant is viable, every effort must be made to deliver it safely. If radium treatment is resorted to, this is permissible, since it is a direct treatment of the mother, but the fetus should be screened, if possible, and not in any way directly attacked.

6. Hyperemesis Gravidarum

Pernicious vomiting occurs in both early and late pregnancy. If it is neurotic, it is fortunately amenable to treatment in hospital. But if it is true pernicious vomiting and no improvement is apparent after medical treatment, abortion is frequently induced. This procedure cannot, of course, be morally defended. But as in other conditions, here, too, direct treatment of the mother by medicine or drugs which will benefit her, though endanger the life of the fetus, is defensible, provided that it is practically the onlyr treatment possible.

7. Eclampsia

Eclampsia is a disease that occurs during the latter half of pregnancy and is manifested by recurrent fits and coma. Infant mortality is high in such cases. Abortion is not, of course, defensible. In competent hands, the expectation of saving both mother and child is good, and it is stated that expectant treatment is more favourable than Caesarean section.

8. Anaesthesia and Twilight Sleep

The purpose of an anaesthetic during labour is to take away consciousness of pain. Among anaesthetics are included chloroform,

ether, gas with air or oxygen, morphia and scopolamine. It is stated on good authority that anaesthetics must be applied with great caution. Consequently it is obvious that nothing may be done that will do more harm to the child than good to the mother. It is unfortunate that in some cases the mother has to put up with a good deal of pain for the sake of a safe delivery. It is deplorable that some writers allow themselves to assert that childbearing is a dangerous disease. Where it is, in fact, dangerous, owing to the mental condition of the mother, everything must be done to relieve the mother without directly affecting the child.

Twilight sleep is the term given to the partial anaesthesia and diminished power of recollection *(amnesia)* which are produced by an injection of morphia and repeated injections of scopolamine. The sleep is induced when a long or difficult labour is anticipated. The harm done to the child is said to be negligible, if the case is skilfully treated and if a good nurse is in constant attendance. The slight risk may be taken for the purpose of relieving great pain or the apprehension of it. Some time ago, twilight sleep was a matter of controversy; it was condemned on the ground that the infant was bom apnoeic, requiring lengthy artificial respiration. These dangers have been eliminated in large measure, so that it is the business of the doctor to study each case and act prudently.

9, Premature Delivery

This term is used only with reference to a viable infant, for no directly premature delivery is permissible unless the infant can normally live outside the womb. When the chances of the infant living its own life outside the womb are satisfactory, premature delivery, if necessary for saving the life of the mother, is morally permissible and may be a matter of obligation. According to good authority, the twenty-eighth week has been adopted as the term of viability. It is very doubtful if any child born before this extreme limit can survive. A premature child who, by the ordinary rules of vital statistics, ought to die shortly after birth, can be kept alive and reared by extreme medical care; such was the case of a five months child in Holland. But in deciding the morality of inducing a premature birth, one must be guided by what usually happens, not by what has happened in freak cases.

10. Sterilization

(a) Male sterilization normally consists in severing the two tubes *(vasa deferentia)* whose function is to convey the testicular fluid from the testes; the severed tubes are sutured, so that after the operation no fluid can pass from the testicles for the purposes of fertilization of

the female ovum and consequently human conception and procreation. The male thus vascctomized is infertile in the sense that he cannot contribute the normal element of procreation, except perhaps for a short time immediately after the operation, probably only in the first act of intercourse. Even that is very' doubtful, for it is not certain that the seminal fluid comes immediately from the seminal vesicles in the act of intercourse.

(5) Female sterilization normally consists in severing the two fallopian tubes, whose function is to allow the female ovum to pass from the ovary to the womb, After such an operation the ovum cannot be fertilized, because the male element cannot reach an ovum, and no ovum can proceed along the whole length of the tube into the womb. The woman in such a case cannot conceive and is infertile.

(c) The matter here treated is male sterilization, but the moral principles at stake apply equally to female sterilization.

\d) Sterilization of the male can be punitive, therapeutic, or eugenic.

(i) Since the State has the right to put a criminal to death for a crime deserving the just legal penalty, it could do less, namely, vasectomize the criminal, if such a punishment was reasonable. If vasectomy was inflicted for sexual offences, the criminal could not, indeed, propagate his kind, but if he were set free, he would continue to be a danger to the public, for sterilization does not eliminate all sexual tendency, especially if it was of a criminal type. Consequently punitive sterilization may be dismissed as an ineffectual penalty, whether the criminal is set free or incarcerated.

(ii) Therapeutic sterilization is employed for the purpose of saving ;?the life during serious disease, or repairing the health of the subject sterilized. If the procedure is judged to be necessary, and if it is the only available remedy, or an extremely efficacious one, there is no objection to it on moral grounds, any more than there is to the amputation of a limb that is diseased, or the excision of an internal organ that is a serious source of illness or a menace to life. Obviously the consent of the subject to be sterilized must first be obtained.

(iii) Eugenic sterilization can be considered as applying to either man or woman. It is produced in the male when it is desired to deprive him of the power of procreation. The operation might be requested by the individual in order that he might be unprolific for personal reasons; more usually the operation is performed on mental defectives, for it is judged undesirable that such persons should propagate their like. On the woman, this kind of sterilization is performed that she may not propagate defective or criminal offspring, or for economic reasons, or to preclude future dangerous pregnancies.

According to Catholic teaching, it is gravely wrong for an individual

to undergo the operation merely that he or she may be unprolific, or to avoid a future pregnancy. It is wrong for a husband to give permission for the operation on his wife, and equally wrong for either husband or wife to consent to it for the aforesaid purposes. It is just as wrong for a doctor or hospital authorities to perform it or suggest it in such cases. It is hardly necessary to say that it is gravely wrong for the State to order it, merely with a view to prevent the increase of the number of mental defectives or of dysgenic families.

Catholic teaching has been enforced by a reply of the Holy Office (Feb. 24, 1940). The question proposed to it was: "Is direct sterilization of male or female, whether permanent or temporary, permitted?" The reply was that it is forbidden by the law of nature. The Holy Office referred back to its decree of March 21, 1931, condemning eugenic sterilization.

Furthermore, Pope Pius XI, in the Encyclical Letter on Christian Marriage (1930), wrote: "There are some who wish to establish a law to deprive, against their will, by medical action, of the faculty [of procreation], those persons who, though naturally fit for marriage, they think would beget defective offspring. This they propose to bring about, not by way of the infliction of a grave punishment authorized by the State for a criminal offence, or to prevent future criminal offences, but, contrary to every right and good, they wish the civil authority to arrogate to itself the power over a faculty, which it never possessed, nor could ever legitimately possess."

11. Euthanasia

This term strictly means a good (i.e. painless) death, but it is now commonly used to signify the medical procedure which, usually -with the consent of the patient, consists in administering a lethal drug in order that the patient's life may pass away in a painless coma, instead of being protracted in pain or useless senility or imbecility. The procedure is called mercy-killing, and it is calculated to spare the feelings of relatives who do not wish to see their loved one in long-drawn agony. The procedure is morally wrong since no man may give permission for murder, nor may any private individual directly take away or shorten the life of another.

12. Abortion

(g) Abortion is the direct expulsion from the womb of an inviable. rrribryo or fetus. What has been said about premature delivery applies to abortion. The infant, or embryo, or fertilized ovum, is where it is in accordance with the divine plan. So soon as life is present and as long as it is present, no one has the disposal of it. It is therefore never permissible to adopt any means which have the intentional and direct

physical result of removing the product of conception from the mother's womb. To do so would be to take a living being from the environment in which alone it can continue to live, and to put it into one in which it cannot possibly survive. Everyone condemns what is called criminal abortion, but the law permits abortion which is considered by a doctor necessary to save the life of the mother. So far as killing is concerned there is no difference between criminal abortion and legalized abortion. The law cannot give permission for the procedure; the legality of it does not justify it. Consequently Catholic teaching condemns alLdinxt, abortions under every circumstance. No reason will justify it, neither the safeguarding of the life of the mother, or her good name, nor the economic condition of the family. The mother is obliged not only to refrain from directly procuring abortion or giving permission for it, but also from every action which might directly induce it. Indeed she is obliged to take every reasonable precaution against endangering the life in her womb.

But indirect abortion is a very different matter. What has been said about premature birth applies to indirect abortion. There are situations in which the mother can be treated for some condition of her own, with the result that abortion takes place incidentally and as a secondary' effect of the treatment of the mother. That procedure is justified if it is the only treatment possible, even if the life of the infant is sacrificed.

(ȯ) Those who effectually procure abortion directly, the mother be deposed and also incurs irregularity (cc. 2350, 985, §4). Craniotomy is not abortion, and though grievously sinful, it is not punished with excommunication. The aforesaid excommunication is reserved to the Ordinary.

(c) ..Onanism is not.abortion, nor is the ejection of the male clement of conception immediately after intercourse. So soon as conception has taken place the direct expulsion of the inviable fruit of conception is abortion. Ills.Mt kllQWn when MJlCfiptiOflULakeS-pjaGe.; there is no ground for the supposition that the female is quickened by the rational soul later than the male.

Mg Ectopics

(^-An ectO-Piç is a developing embryo.or fetus .out of place, that is, at any point between a Graafian follicle on the ovary and the cavity of the womb. Jn this treatment of the subject the only cases considered are those of ectopics which develop in the fallopian tube. This condition is çalled tubal pregnancy.

(ȯ) The danger to the mother in cases of tubal pregnancy is that the pregnant tube may burst with fatal consequences to her. The

tube bursts because its walls become eroded by the growing embryo. " lhere is only one treatment of ectopic pregnancy, surgical remova f the affected tube. Surgical opinion is unanimous.

(c he only question now dealt with is this: " hat may the surgeon do if he discovers an actual tubal pregnancy when he is operating on a woman for some condition, such as sterilization or appendicitis, or if he suspects or knows that there is an ectopic?"

(rf) It is certain that he may not slit the tube and take out the embryo. It is equally certain that he may not kill the embryo in any way, as by employing an electric current.

(*) It appears permissible, in view of the extremely dangerous condition of the mother—aricTonly on that supposition, if it is verified—to cut out that part of the fallopian tube which contains the living embryo, if that operation is necessary to save the mother's life. In order to cut out the tube, the surgeon must first ligate the arteries, a procedure which has the effect of arresting the oxygenation conveyed by the mother's blood to the embryo. The whole procedure seems to be similar in all respects to excising a cancerous womb. Since the latter may sometimes be justifiable, so, too, may the surgeon be justified in cutting out the pregnant tube.

(/) Most modem authors approve of this solution, but there are some who hold that the procedure is a direct invasion of the life of the embryo, and maintain that it is expressly forbidden by a reply of the Holy Office. We may examine this contention.

(g) The question put to the Holy Office (March, 1900) was: "Is it ever permissible to extract from the maternal organs an ectopic fetus, not yet viable, before the sixth completed month after conception?" The reply was: "No, in accordance with the decree of May 4, 1898, in virtue of which serious and opportune precautions must be taken, as far as possible, for the lives of fetus and mother. In regard, however, to the time [of operation], let the questioner remember that by virtue of the aforesaid decree, no acceleration of delivery is permissible, unless it is done at such a time and in such a way that, in accordance with usual contingencies, the lives of the mother and fetus are safeguarded."

(A) .ThQSfi-jwho...dcfend the procedure of removing the fallopian tube described above, think that there is no direct attack on the fetus in the case, and that it does not fall witlinTthe condemnation of the Holy Office, because it is the mother's organ that is directly treated and the death of the fetus is incidental. That opinion appears to be well-founded.

14. Craniotomy and Feticide

(a) By craniotomy is meant the operation which reduces the size

1 Dr. Elmer A. Schlueter, in *Ecclesiastical Review,* August 1941, pp. 81 JÇÇ.

of the fetal head and extracts it by the process of perforation, followed by cranioclasm and cephalotripsy, which means breaking up the skull of the child. Other forms of the fatal operation are cleidotomy, the division of the clavicles, evisceration, the extraction of the viscera of the fetus through the abdomen, decapitation, the severance of the head from the neck. All such operations may be classed under the term of feticide for the sake of this treatment, although the term feticide has other technical meanings.

(α) It must be admitted that the application of principles of Natural law are not evident to all persons with compelling force. The good faith of the harassed surgeon confronted with a hard case and with text-book and practice on his side, may be admitted. But the teaching of the Church has certainly been a great factor in the progress of science and surgical skill, and it still is, and in the long run its seeming intransigence has been a benefit to the human race. The Church can both insist on principles and express pity for hard cases. Thus Pope Pius XI, in the Encyclical already quoted, wrote: "As to the medical and therapeutic indication [of abortion], however much we may pity the mother, whose health and even life is gravely imperilled in the performance of the duty allotted to her by nature, nevertheless what could ever be a sufficient reason for excusing in any way the direct murder of the innocent" (as is the case in abortion)? The words of His Holiness are applicable to craniotomy.

1a the particu y» it is obvious that if the infant in the womb is living, craniotomy is just murder, and, indeed, direct murder. Fortunately, good authorities have stated that craniotomy is now very rarely indicated. There has been an enormous decrease in this murder of the innocents; it has practically gone out of fashion and will never come into fashion again.

15. Curettage

Curettage is employed sometimes for removing portions of the interior surface of the uterus and cervical canal. It is obvious that the fetus may not be evacuated from the womb in this way, since then it would be directly destroyed. In other words, the fetus may not first be evacuated and the womb then treated.

16. Irradiation by X-rays

If radium treatment is applied to the uterus for adolescent menorrhagia (excessive menstruation), the ovaries are shielded, otherwise menopause results. If the ovaries are treated, menopause is induced. Consequently other treatment, when possible, must be given in order to preclude sterilization.

17. Human Monster·

The product of human conception must be presumed to have a human soul. The destruction of a human monster at birth is justified by some doctors and parents, on the plea that it is an act of mercy towards both monster and parents. A life that would be a misery is cut short, and the being, if baptized, is sent immediately to heaven. But as such a monster may be, and probably, if not certainly, is, informed with a human soul, to deprive it of life may be, and very probably, if not certainly, is, murder. One may not apply the principles of Probabilism to the case.

A monster without heart or with one that does not function, sometimes grows in the womb together with a normal infant. The monster is born dead, and sometimes hours after the normal infant has been born. It may be connected by the cord with the normal infant, so that when the cord is severed the monster dies. When there is evidence or a suspicion that there remains in the womb a monster not delivered, it should, if possible, be baptized conditionally in the womb, and after birth, if alive, baptized conditionally.

18. Embalming

Embalmers must have a death certificate before embalming. It is certain that death does not always supervene on the cessation of the heart-beat, nor, in some cases, before putrefaction has appeared. The Church wishes corpses to be buried, but if the eviscerated corpse is embalmed and kept unburied, the remnants together with the blood should be buried. The heart, however, may be preserved in an urn, but not exposed in a sacred place lest it be treated as the relic of a Saint (S.R.C., Feb. 11, 1898). After a *post mortem,* the parts of the body should be replaced, the body itself should not be desecrated, no parts kept for demonstration except with the permission of the relatives, the executor and the legal authorities, for a notable advance of science. In England there is no property in a dead body; it is in charge of the executor until it has been buried.

19. Pre-frontal Leukotomy or Lobotomy

This operation consists in the division of the fibres connecting the frontal lobes of the brain with the thalamus. It has been moderately successful with persons suffering from mental conflict, anxiety about the future, suicidal tendencies, self-mutilation, states of tension, destructiveness, and uncontrollable violence. The operation is done only when all other methods of medical treatment have failed, and when otherwise the prospects of recovery are practically non-existent.

The danger of the operation is that it may interfere with the rational life of the patient. Nevertheless it does often save life, and provided that

permission is obtained for the operation from the patient and those who are responsible for him, it appears justifiable to give him a further lease of life, no worse, perhaps better, than his present state. More clinical experience than is at present available is necessary before one can pronounce in its favour. Recently (1947) operations have been successful. Watts and others in U.S.A., neurologists, have performed more than 2, operations wdth good results. The re-education of the patient is a matter of very' great moment.

20. Shock Therapy

The electric treat ent by shock to the brain has produced favourable results, but those who are experts in the procedure state that it is dangerous, except wdth the most careful handling and unless the most exact instruments are used. One danger is, so it is stated, that of the loss of memory, at least for a time.

21. Organic Transplantation

Living tissues can be transplanted from one person to another. Blood transfusion, skin-grafting, and bone-grafting, present no moral difficulty, nor does the transference of part of a healthy cornea to the cornea of the blind. But the transplantation of glands is questionable in some cases. Provided that the donor suffers no serious harm, it seems defensible, but not so if sexual sterilization in the donor ensues. The process is entirely different from Voronoff's ape glanding, which merely stimulates the sexual functioning of the subject, or rejuvenates him.

22. Topectomy

This operation consists in the removal of brain tissue. Its justification must be judged as leukotomy is judged. It is as empirical an operation as leukotomy, and it is hardly possible to pronounce in its favour, except in the extreme cases of not making matters worse for the patient, but giving him a chance of improvement.

23. Narcotherapy

The intravenous injection of sodium pentothal produces a narcotic condition, in which the patient talks freely, and sometimes lives over again some terrifying experience. The psychiatrist treats the patient analytically. The morality of the procedure is the same as that of applying hypnotism. It appears to be defensible with the permission of the patient, and in the hands of a conscientious operator.

24. Caesarean Section

(a) The section called Caesarean is a horizontal incision through the wall of the uterus for the abdominal delivery of a child normally

situated *in utero.* This operation resulted until recent times in high maternal and infant mortality. Many surgeons were opposed to it, and, indeed, it was as recently as 1913 that McPherson succeeded in introducing it in the U.S.A, for the treatment of *placenta praevia.* Owing to the highly dangerous character of the operation the older theologians did not favour it. But both surgical and theological opinions are now more favourable.

(ά) In 1891, Murdoch Cameron of Glasgow published a series of ten cases with only one death. He wrote: "I think the time has come when the lives of the mother and child may alike be saved, and I prefer to think that an infant, come to maturity, is destined for something greater than to have its glimmering life extinguished by an accoucheur skilled in the use of a dreadful perforator" (cf. *The History of Caesarean Section,* by J. T. Young, 1944).

(c) It is gratifying to read that the operation has now practically done away with the indication of craniotomy on the living child. The operation was revolutionised by Sanger in 1882. But there still remains for surgeons the privilege of saving more lives by what is termed the lower segment operation as opposed to the upper and classical one. The lower segment operation was suggested by Robert Wallace Johnston (1786), but the suggestion was neglected for a very long time; Kehrer of Heidelberg was the first to perform the operation by a low transverse uterine incision (1882). According to a great authority (A. W. Bourne, *Synopsis of Obstetrics and Gynaecology,* 8th edit. 1941, p. 258), the lower operation shows less risk in presence of infection, leaves a scar less liable to rupture in future pregnancy, though admittedly it requires more time and more skilful technique.

(</) The same author records that between the years 1710 and 1835, the mortality which resulted from the operation was frightful, being due to haemorrhage and sepsis, because the uterus was left unsutured. But great progress has been made in recent years in saving both mother and child. Even the mortality due to failed forceps cases has been reduced, for though the section, after failed forceps, was highly dangerous, the danger has been diminished by, for example, the late Professor van Rooy, chief surgeon in the Amsterdam clinic. He stated that in thirty years' work in the clinic, he had never met with a case in which sound medical treatment conflicted with the moral teaching of the Church.

(e) After the death of a pregnant mother, in this operation or any other, if the child is inviable, an attempt should, if possible, be made to baptize it *in utero,* if it is reasonably thought that the child is still alive. If no other method is possible except Caesarean section on the dead woman, that should be done if the hospital authorities allow it. If, after the mother's death, the child is thought to be viable, it should

be removed from the uterus with the utmost dispatch, for it may survive the mother from five to twenty minutes (de Lee, 1928). Cases are quoted in which a child has survived for a good deal longer. If the mother is dying and will die in a few minutes, a Caesarean section would hasten her death and would not be permissible under any circumstances.

Post mortem section to deliver a living child dates very far back. Numa Pompilius (715-672 B-c·) forbade the burial of a pregnant woman until the child had been removed from her womb. Throughout the centuries, the Church favoured the operation for the sake of baptizing the child. Guy de Chauliac (1298) approved of it; Guillimeau (1612) wrote that lawyers judge those worthy of death who bur}' a pregnant woman who is dead before the child is taken from her. But a pregnant woman in danger of death is never obliged to allow the section on herself, even for the sake of the baptism of the child, if the operation is lethal, as indeed it might be, for a surgeon is not allowed to kill the mother in order to get at the child. Such an operation on some women would kill them at once. If her death would be only probable in consequence of the operation, some authors hold that she would be excused from undergoing it, and they add that a Caesarean operation is an extraordinary means for getting at the child, which the mother is not obliged to permit.

CHAPTER VI

THE SIXTH AND THE NINTH COMMANDMENTS

SECTION 1. The Precepts

The sixth commandment is: "Thou shalt not commit adultery." The ninth co[illegible]andment is "Thou shalt not desire thy neighbour's wife, etc."

The sixth commandment explicitly forbids adultery, and implicitly all actions which lead to it, and all actions which are contrary to the right use of the sexual function. The ninth forbids all lustful desires.

SECTION 2. Chastity and Modesty

Chastity is the virtue that moderates in the married, and altogether excludes in the unmarried, all deliberate expression of the sensitive appetite for sexual activity and its accompanying pleasure.

Modesty, in so far as it is a bulwark of chastity, is a part of the virtue of temperance; it prohibits every act that might incite to unchastity. The sin contrary to chastity is impurity; that contrary to modesty is immodesty.

SECTION 3. Impurity or Unchaetity

1. Impurity is the inordinate use of the sexual function. The sexual functioning is normally accompanied with physical pleasure, so that sexual pleasure is a sign that sexual activity is proceeding. Authors generally treat of this matter under the aspect of pleasure; here it will be treated mostly under the aspect of sexual activity. Principles which apply to the former apply equally to the latter, but it seems better to deal with activity rather than with its accompaniment, namely, pleasure.

2. The treatment of the matter being here confined to the unmarried, the morality of sexual activity is determined as follows:

(a) Even the slightest amount of sexual activity that is whether it is sought, or accepted when it has arisen, is a grievous sin.

(A) Sexual activity that is not itself voluntary, but voluntary only in its cause, that is, if its cause was voluntary, may be a grave sin, or a fight sin, or no sin at all. The principles will be treated under the caption of external acts of immodesty (sect. 7 *infra*).

SECTION 4. Consummated Sexual Acts not Contrary to Generation

1. Those consummated sexual acts which do not impede generation are fornication, adultery, incest, rape, sacrilege, abduction. They are all grievous sins.

2. Fornication, that is, sexual intercourse between unmarried male and female persons, is a grievous sin against chastity.

3. Adultery, that is, sexual intercourse between two persons, male and female, of whom one at least is married, is a grievous sin against both chastity and justice.

4. Incest, that is, sexual intercourse between two persons, male and female, who, owing to blood relationship or affinity, are forbidden to marry one another, is a grievous sin against both chastity and dutifulness, or the love and respect which should subsist between such relatives.

5. Sacrilege in this context is a sin against chastity committed by or with one under the vow of chastity, or a sexual sin, even occult, committed in a sacred place. It is a grievous sin against both chastity and religion.

6. Rape is sexual intercourse violently committed with a woman against her will. It is a grievous sin against both chastity and justice.

7. Abduction, as a sin against chastity, is the violent carrying off of a woman for a lustful purpose. It is a grievous sin against both chastity and justice.

SECTION 5. Con-ummatrd Sexual Acts Which Exclude Natural Generation

These sins are voluntary' pollution, that is, complete sexual activity apart from natural intercourse; it is a grave misuse of a natural function; sodomy, that is, sexual activity exercised between two persons of the same sex; bestiality, that is, sexual activity exercised between a human being and a brute animal. The last two involve the unnatural approach of a sexual nature. They are all grievous sins.

SECTION 6. Unconsnmmated Acts Against Chastity

These sins are sexual activities not produced to their ultimate issue, that is, not resulting in complete sexual release. They are always grievous sins when they are deliberately excited, or when accepted after their insurgence. When sexual excitation is voluntary only in its cause, it may be grave, or light, or no sin, in so far as the causes of the sexual excitement were grave, or light sins, or no sins, respectively. It is not sinfid if due to a morally good or indifferent act, provided that the effect of the act was not desired, nor accepted when the excitement arose.

SECTION 7. External Acts of Immodesty

Note.— This section applies to the unmarried only, unless the contrary is stated.

1. Classification

(β) External acts of immodesty are those external physical acts which are liable to arouse sexual excitement in normal people, as a cause produces its normal effect. These acts may be classified as looks, touches (including kissing, embracing), speech (including songs) and reading. But it must be observed that conversation and singing, which are liable to arouse sexual feelings, are to be judged, so far as their moral import is concerned, just as thoughts and desires are judged, the morality of which has been dealt with under the caption of internal sins (treat. IV., c. I, sect. 6, *supra).*

(6) A very reasonable distinction is made between the different parts and members of the body, inasmuch as the touching and gazing at some parts of the body are more likely to arouse sexual excitement in the person who touches or gazes at them, than are other parts of the body. Thus a man is more likely to be incited to lust by touching

or gazing at the genitals, the parts adjacent to them, and the uncovered breasts of a woman, than he would be if he touched or gazed at her face, hands, feet. There are still other parts of the woman's body, as the lips, neck, thighs, which are termed the erotogenic zones, and when these parts arc touched, the person so touched is liable to experience sexual excitement, at least when those parts are handled for some time.

(c) It is necessary, when determining the moral import of external acts of immodesty, to pay regard to three factors in the acts, namely, the character of the act itself, the motive of the agent, and the likelihood of the act arousing sexual excitement in the agent and of consent to it.

(rf) External acts of immodesty may be mutual or solitary. If mutual, scandal must always be taken into account, and this is commonly given by cooperating with another in a sinful act.

2. The Moral Import of the Immodest Act Itself

(a) Immodest acts can arouse sexual excitement, consent to which might or might not be given. Consequently when such acts are done deliberately, the danger is incurred of arousing sexual feelings and of consenting to them. Examples of such acts are given later. But if such acts are necessary or very useful (as they are when, for example, a doctor or surgeon is dealing with a patient), then it is permissible to perform the acts, though it is foreseen that sexual excitement will be aroused, to which, of course, consent is not given. The greater the likelihood of the excitement being aroused, the graver must be the reason for doing the act. If it is known from experience that no excitement will be aroused, then the immodest act, though contrary to modesty, is not contrary to chastity.

(/>) Acts of immodesty, as immodest touches or looks, are specifically distinct from consummated acts of impurity in their moral import, so that it would not be sufficient to confess mere immodesty, if the consummated acts had taken place. Thus if the consummated acts of adultery, fornication, incest, rape, pollution, had been committed, it would not be sufficient to confess immodesty. But the various solitary acts which produce complete or incomplete sexual excitement do not differ specifically the one from the other, because the one and only purpose of each of the acts is to produce the effect. Of course complete solitary sexual orgasm differs specifically from incomplete sexual excitement.

3. The Moral Import of the External Immodest Act as Determined by Motive

(a) If an act of immodesty is performed with the intention of arousing sexual excitement, however slight, even if it did not arise at all, a grave sin is committed, because the motive is gravely sinful.

(ά) If the said act was performed with the intention of exciting sensual, not venereal, excitement, a venial sin is committed. But if it is known from experience that the merely' sensual pleasure will develop, as it were, into sexual excitement, then a grave sin is committed, if there is a proximate danger of consent, or pollution. This sensual pleasure is common with persons keeping company with a view to marrying one another. The feelings of affection, which are, of course, legitimate, when such persons kiss or embrace, may shade into sexual excitement. But this statement does not imply that engaged persons may not kiss and embrace one another moderately to express their mutual love, even if it is foreseen that sexual excitement will arise, to which they do not consent.

(r) If an external immodest act is performed from the motive of curiosity, playfulness, or levity, and only perfunctorily, a venial sin is committed, because the act is not a grave cause of sexual excitement, and the motive is not gravely sinful.

(rf) If an immodest act is performed for a just cause, no sin is committed, even if sexual excitement, whether slight or vehement, ensues, to which no consent is given, and if the excitement, though foreseen, was not intended.

4. The Moral Import of the External odest Act as Determined by the Danger of Arousing Sexual Excitement, Whether Slight or Grave

(a) Those acts are venial sins, which are only remote and slight factors in arousing sexual excitement.

(b) Those acts of immodesty' are grave which are proximate and notable causes of sexual excitement, and if there was no just reason for performing them.

(c) To discriminate in concrete cases between proximate and remote causes of sexual excitement we must take into account

(i) the character of the act,

(ii) the circumstances of the act,

(iii) the temperament of the subject.

It is very necessary to take into account the third element, for there are some persons who are hypersensitive, and others who are sexually frigid. The highly sensitive are not obliged under grave sin to refrain from causes which would have little or no influence on normal people. Similarly, those who are sexually frigid are not obliged under grave sin to refrain from those causes which, in their case, do not arouse any sexual excitement, whereas in normal people, the same causes would arouse vehement sexual excitement. Of course, the element of scandal must always be taken into account.

5. Amplifications

The morality of acts of immodesty with persons of different conditions of life differs according to circumstances. Thus immodest actions done to others with lustful desire in their regard, differ specifically in accordance with the sex of those others, their married or unmarried state, their close blood relationship, their dedication to God by the vow of chastity. Such circumstances must be confessed, because the objects differ specifically in the cases mentioned. But if the motive of the agent was to excite himself sexually, without any regard to the conditions of life of the other person, then the end in view was one and the same, namely, personal sexual excitement, and the conditions in life of the others have no moral import. This is normally the case in immodest gazing at others. But immodest gazing at and touching others of the same sex as the beholder or agent, differs specifically from immodest gazing at or touching a person whose sex differs from that of the beholder or agent.

6. Applications

a. Touches

(i) To handle without a just reason the sexual organs or the adjacent parts of the body of an adult person of the opposite sex, whether the parts are clothed or naked, is to be regarded as gravely sinful, because it is normally a proximate cause of arousing sexual excitement.

(ii) To perform such actions for a just cause, even if sexual excitement is aroused without intending it or consenting to it, is not sinful. A just reason would be medical or surgical treatment, or cleanliness.

(iii) The handling of their sexual organs protractedly by young persons at or about the age of puberty must be forbidden under grave obligation, for the practice leads to the arousing of sexual excitement and to consent to it.

(iv) To touch the aforesaid parts of a person of the opposite sex or of oneself perfunctorily and from levity would be a venial sin.

(v) To handle the sexual organs of an animal is in itself a venial sin, for it would be a remote, not a proximate, cause of arousing sexual excitement in the agent.

b. Kissing and Embracing

(i) Honourable kissing and embracing between persons of different sexes in accordance with the custom of the country among good people is not sinful, even if sexual excitement arises without either intention or consent.

(ii) Passionate or protracted kissing and embracing between unrelated adult persons of different sexes are to be regarded as normally

proximate causes of sexual excitement and gravely sinful. Kissing and embracing between young persons who are keeping company with the view of marrying one another should be kept within the bounds of moderation, for these people are very susceptible to sexual excitement. But if ordinary kissing and embracing between these persons, which are dictated by pure affection, cause them to be excited sexually, they must resist the movements and not consent to them. If they do not intend them and resist them if they arise, then even if they foresee such excitement, they are not forbidden to kiss and embrace one another in the usual manner, but not over-passionately nor protractedly. It is certainly not allowed to these persons to intend or consent to even the smallest degree of venereal pleasure.

c. Looks

(I) To look at one's own sexual organs briefly from curiosity or levity is a venial sin, for it is normally a remote cause of sexual excitement.

(ii) To gaze at the naked sexual organs of the opposite sex, apart from necessity or considerable usefulness—as in the case of doctors or surgeons—is normally a grave sin, unless the look is brief and from a distance. The same must be said of gazing at the thinly veiled sexual organs of a person of the opposite sex. Consequently mixed bathing and sunbathing, and mixed hiking, are normally fertile sources of the danger of sin, at least in thought. But if mixed bathing is unavoidable, and if people must witness others sunbathing, temptations to evil thoughts and desires must be resisted.

(iii) To gaze at the coupling of animals without necessity, but merely from curiosity, is a venial sin. To gaze at human sexual intercourse would be a grave sin, unless the look was perfunctory and from a distance.

(iv) Gymnastic exercises in public of young women scantily attired has been condemned by the Holy See. Mixed hiking parties of young people, Catholics and non-Catholics, are fraught with danger of sin, and though there is safety in numbers as a rule, bold individuals, both male and female, are found everywhere, who ridicule Catholic standards of moral conduct.

(v) No Catholic can approve of a young woman acting as a nude model to a class of young artists. Modelling and painting from the nude for public exhibition is to be condemned. Nude statuary of the ancient artists can be tolerated, but there is no artistic need of multiplying such nudities. It is not regarded as sinful to gaze at the nude statuary of the ancient masters for artistic purposes, or even for educating the aesthetic sense.

(L Conversation

(i) Immodest talk of a gross nature is gravely sinful, for it is normally liable to arouse sexual excitement in the listeners. It is contrary to both modesty and charity. Suggestive talk or song is only one degree less evil.

(ii) If obscenities in speech or song are slight, or if grave in circles accustomed to lewd talk, and are indulged in more by way of joke than for the sake of shocking others, the sin would be slight. To overhear obscenities is a misfortune and not sinful, if no deliberate pleasure is taken nor encouragement given to the speaker. To add a slightly coarse word now and then to the conversation from human respect is not a grave sin, nor would it be grave to listen to obscenities from curiosity, without taking pleasure in them. It is usually impossible for Catholics to quit the company of those who are foul-mouthed in places where work has to be done, for practically wherever Catholics go to work in company with others, especially if the workers are numerous, their ears will be dinned all day and every day with objectionable talk. It has to be put up with, and so far as possible and prudent, to be discouraged.

e. Reading

(i) The reading of certain books forbidden by the Church is sinful, and may involve excommunication. But that kind of reading is not here dealt with. The reading here dealt with is that kind which is contrary to Natural law, inasmuch as it exposes the reader to lascivious thoughts and desires.

(ii) To read a book that is only slightly lascivious merely from curiosity or for recreation, or for the style of the author, is venially sinful, for it is in itself only a remote cause of sin. But if such reading frequently gives rise to grave temptations, it is gravely sinful, for it is a proximate cause of grave temptation in a person of normal temperament.

(iii) The reading of obscene books with permission for a just cause such as reviewing or refutation, is not sinful, but we are reminded by positive decree of the Holy Office (April 17, 1943) that, notwithstanding permission given, the Natural law forbids such reading if, in fact, it is dangerous for the reader.

(iv) The reading of grossly obscene matter without permission is a grave sin, for normally it would be a proximate occasion of grave sin: reading is not like a sudden and brief temptation; it is continuous in its influence, and it is a fact that a continuous incitement, even if slight, when protracted, becomes a grave occasion of sin, for it creates a momentum, as it were, which grows by repetition.

(v) But if such reading is very brief and indulged in from curiosity, the sin would be slight.

(vi) The moral responsibility of one who writes an obscene book is very grave, for the work is perpetuated, and is the cause of innumerable sins.

(vii) The sins of young people who seem to delight in finding the passages in books that had better been omitted, and are a source of objectionable curiosity, such as are found in the ancient classical authors, are venially sinful, since the search is made out of curiosity, not with the evil intention of arousing sexual excitement, at least not normally.

APPENDIX

SOME SEXUAL PERVERSIONS

The confessor will rarely be confronted with penitents who are the victims of sexual perversions, for such people do not go to confession. They are either entirely dejected about their condition, or do not wish to be delivered from it. Brief mention may be permitted of these perversions, so that on the rare occasions, the confessor may recognize a case, and recommend the sufferer to consult a Catholic psychiatrist. Some of these perversions are as follow:

1. Homosexuality, whether active or passive, is sexual passion for a person of the same sex. This abnormality is the contrary to hetero-sexuality, which is the natural attraction to a person of the opposite sex.

2. Sadism is the desire to stimulate sexual feelings by inflicting pain on another. It is so-called from Count de Sade who was addicted to It.

3. Masochism is the stimulation of sexual feelings by submitting to physical pain. It is so-called from L. von Sacher-Masoch, who described it in his romances.

4. Fetishism is the sexual attraction to some part of the body of one of the opposite sex, or to some article of dress, as the mouth, feet, neck, hair, shoes, clothing. To attire oneself in the clothes of one of the opposite sex has been an example of this perversion, and is termed transvestism.

5. Voyeurs are those who have a tendency to peep at objects of sexual interest.

6. Exhibitionism is the exposure of the sexual organs to the gaze of others.

7. Necrophilia is sexual attraction to the corpses of the dead; there is a similar attraction to statuary.

8. Renifleurs and coprophilous are attracted to excrement.

9. Pedophilia and pederasty are the perversions of those who are sexually attracted to children and young boys, the latter being termed the Greek vice of ancient times.

10. Sapphism is the unnatural sexual attraction of female to female.

Many of these perversions are intractable, like the addiction to drug-taking, unless seriously taken in hand; curative treatment has often to be extended over a long time. But medical or psychical treatment is the work of the specialist, though spiritual treatment should have its place.

SECTION 8. Sex Education

1. Papal Teaching

(a) Pope Pius XI dealts with sex education in his *Encyclical Letter on Christian Education of Youth* (1929). His Holiness wrote as follows:

"Another very grave danger [in the education of the child] is that naturalism which nowadays invades the field of education in the most delicate matter of purity of morals. Far too common is the error of those who, with dangerous assurance and under an ugly term, propagate a so-called sex-education, falsely imagining that they can forearm youths against the dangers of sensuality by means purely natural, such as a foolhardy initiation and precautionary instruction for all indiscriminately, even in public; and worse still, by exposing them at an early age to the occasions, in order to accustom them to, so it is argued, and as it were to harden them against, such dangers.

"Such persons grievously err in refusing to recognize the inborn weakness of human nature, and the law of which the Apostle speaks, fighting against the law of the mind (Rom. vii. 23); and also in ignoring the experience of facts, from which it is clear that, particularly in young people, evil practices are the effect not so much of ignorance of intellect, as of weakness of a will exposed to dangerous occasions and unsupported by the means of grace.

"In this extremely delicate matter, if, all things considered, some private instruction is found necessary and opportune, from those who hold from God the grace of their state of life, every precaution must be taken."

His Holiness then quotes some words of the writer, Antoniano, regarding these precautions:

"Such is our misery and inclination to sin, that often in the very things considered to be remedies against sin, we find occasions for, and inducements to, sin itself. Hence it is of the highest importance that a good father, while discussing with his son a matter so delicate, should be well on his guard and not descend to details, nor refer to the various ways in which this infernal hydra destroys with its poison so large a

portion of the world; otherwise it may happen that instead of extinguishing this fire, he unwittingly stirs or kindles it in the simple and tender heart of the child. Speaking generally, during the period of childhood it suffices to employ those remedies which produce the double effect of opening the door to the virtue of purity and closing the door upon vice."

(Z>) Naturalist education on sex without reference to religion is an entirely wrong approach to combating the difficulties of the young. On this aspect of the matter, His Holiness wrote: " ⁑ Folly is bound up in the heart of a child and the rod of correction shall drive it away' (Prov. xxii 15). Disorderly inclinations, then, must be corrected, good tendencies encouraged and regulated from tender childhood, and above all, the mind must be enlightened and the will strengthened by supernatural truth and by the means of grace, without which it is impossible to control evil impulses, impossible to attain to the full and complete education intended by the Church."

It may therefore be confidendy stated that it is contrary to the mind of the Catholic Church to give sex education on a purely biological basis, without any reference to Christian principles, to give it to classes in common, or to give it to mixed classes of boys and girls.

(c) To the aforesaid words of Pope Pius XI may be added the words of exhortation of Pope Pius XII in an Allocution to a meeting of Catholic women in Rome (Nov. 26, 1941), as to the ideal manner of introducing their children to the facts of life (cf. *Clergy Review,* March 1942, for the translation of this Allocution).

"During the period of transition from the unconscious purity of infancy to the triumphant purity of adolescence, you have a task of the highest importance to fulfil. You have to prepare your sons and daughters so that they may pass with unfaltering steps, like those who pick their way among serpents, through that time of crisis and physical change, and pass through it without losing anything of the joy of innocence, preserving intact that natural instinct of modesty, with which Providence has girt them as a check upon wayward passion. . . .

"With the discretion of a mother and teacher, and thanks to the open-hearted confidence with which you have been able to inspire your children, you will not fail to watch for and to discern the moment in which certain unspoken questions have occurred to their minds and are troubling their senses. It will then be your duty to your daughters, and the father's duty to your sons, carefully and delicately to unveil the truth as far as it appears necessary, to give a prudent, true and Christian answer to those questions, and set their minds at rest. If imparted by the lips of Christian parents, at the proper time, in the proper measure, and with the proper precautions, the revelation of the mysterious and marvellous laws of life will be received by them with reverence and

gratitude, and will enlighten their minds with far less danger than if they learned them haphazard, from some unpleasant shock, from secret conversations, through information received from over-sophisticated companions, or from clandestine reading, the more dangerous and pernicious as secrecy inflames the imagination and troubles the senses."

2. Teaching of the Holy Office

The condemnation by the Church of the purely biological approach in sex education was expressed by the Sacred Congregation of the Holy Office (March 21, 1931), in replies to questions on the advisability of sexual education and sexual initiation, as it was then being introduced into some schools. The Sacred Congregation expressed its mind as follows: ''Care must be bestowed first of all on a full, determinate, and continuous religious training of the youth of both sexes; esteem of, desire and love for, the angelic virtue must be excited in them; most of all they must be taught to have assiduous recourse to prayer, the Sacraments of Penance and the most Holy Eucharist, filial devotion to the Blessed Virgin, the Mother of holy purity, and to commit themselves to her protection. They must avoid dangerous reading, unseemly spectacles, the conversation of wicked persons, and all dangerous occasions of sin."

3. Teaching of the Hierarchy of England and Wales

The Catholic hierarchy of England and Wales issued a statement (April, 1944) on the teaching of sex knowledge. The following is a summary:

"We have no desire to minimize the necessity of some attention being paid to the problem both now and continuously in the future.

''The remedy is to be found not so much in the imparting in public of fuller and more systematic knowledge of sex from the physiological or biological standpoint, as by the removal of external temptations, and by the general and determined inculcation of the practice of Christian virtue and our dependence on divine grace.

" If the problem with which we are concerned is accentuated in these days, it is due, apart from wartime conditions, 1, to certain general influences which are responsible for placing before young people lower moral standards of life and conduct, and, 2, to the failure on the part of many parents to fulfil the obligation which is theirs of instructing their children in the things which concern the welfare of body and soul.

''Theproposed instruction in schools would be largely unnecessary, if the causes of the evils which it is intended to remedy were first of all removed—bad pictures, bad literature, bad theatre displays, shocking housing conditions. It is our opinion that these evils can and should be removed.

"As regards the parental instruction in the matters concerned, we are convinced that herein lies the chief cause and the remedy which is being sought. The omission of parental instruction and parental discipline is undoubtedly responsible for many of the moral and social evils which we regret today.

"But even good parents sometimes feel themselves unprepared or ill-equipped for their work as educators. The Catholic Church does not encourage such unpreparedness on the part of parents, nor does she favour a policy of complete secrecy between parents and children concerning the mysteries of life. Any doubt upon this has been set at rest by the pronouncements of recent Popes. 'Do not give them [your children] wrong ideas or wrong reasons for things; whatever their questions may be, do not answer them with evasions or untrue statements' (Pope Pius XII in an Allocution to Women of the Catholic Action on the Feast of Christ the King, 1941). Catholic parents can depend on the grace of matrimony and the helps of prayer and frequent reception of Penance and Holy Eucharist to carry out this advice."

Their Lordships then quote the words of Pope Pius XI cited above, urging that every' precaution must be taken in treating of this delicate subject.

"Until parents are better equipped for their task, there will always be some children lacking in the knowledge of those things intended by God for their own progress in virtue, and for the fulfilment of God's design. But we do not admit that, therefore, the duty of imparting this knowledge necessarily falls upon the school-teachers. Teachers have no strict right to arrogate to themselves parental duties. The teacher is primarily in place of the parent and not a civil servant doing the work of the State.

"There will always be some parents who neglect their obvious duties and whose omissions call for attention by someone else. In such cases, the teacher or experienced youth leader, animated by Christian charity and having the necessary competence, may be the best person to make up the deficiency. But it is advisable that the approval of the parents should always be sought. This help, however, in the more intimate matters of life must always remain personal and individual. Class and group instruction of children and youth on the physiological aspect of sex would be fraught with grave danger and would be against the traditional teaching of the Church."

Their Lordships then refer to the words of the Holy Office cited above, and to those of Pope Pius XI, also cited.

"If the main purpose of the recent agitation for more general instruction is a social one, namely, to safeguard the physical welfare of the nation, then the advocates of sex instruction on the lines suggested are doomed to disappointment, since the evils concerned are the effect not

so much of ignorance, as of a weakness of will unsupported by the means of grace.

"It is not so much information as formation which is required, formation of character, the training of the mind, the heart and the will, with the necessary assistance of religion. The religious and moral training must continue to be the main method of approach in the schools and youth movements to the problems we are seeking to solve. Every other form of education (i.e. other than positively Christian) is false and unsound, and will lead neither to spiritual nor temporal well-being.

"The State should hesitate to encourage parents in their neglect [of educating their children in these matters] by teaching in the schools or by other means. It should rather take steps to see that parents themselves are better equipped for their parental tasks."

CHAPTER VII

THE SEVENTH AND TENTH COMMANDMENTS

SECTION 1. The Precepts

The seventh Commandment is: "Thou shalt not steal." The tenth commandment is: "Thou shalt not covet thy neighbour's house, etc." The seventh commandment forbids all external violation of commutative justice. Interior desires or intentions of violating commutative justice are also forbidden, and therefore the tenth commandment forbids us to covet our neighbour's goods.

SECTION 2. Justice in General

1. Justice is a virtue which inclines us to give to everyone that which is due to him. A right is the object of justice.

2. In this context, a right is the moral power to possess and use a thing as one's own, or to claim the possession or the use of it.

3. Legal justice has for its object the duties of a citizen to the State. Distributive justice has for its object the duties of a State to its citizens. Commutative justice has for its object the duty of one person (individual or corporate) to give another person (individual or corporate) what is strictly due to that other in the sphere of possession or use of rights. The word person is used in this context, for only a person has rights. Animals have no rights in regard to man. But man has self-regarding duties towards animals of not using or treating them irrationally, for they are the creatures of God, and are given to man for rational use.

SECTION 3. The Objects of Ownership

1. The right to retain a thing in lawful ownership *(jus in re)* is a right based on the relation of a thing to the owner, so that he has a preferential right to keep the thing as against everyone else. The right to get a thing (jus *ad rem)* is a right in relation to another who has a duty to give the thing to him who justly claims it, or not to prevent him from possessing or using it.

2. Ownership is the plenaryJawfid .control over something. It is absolute, when one has the right to possess, use, and dispose of a thing. It is qualified, if a thing may be used in some ways but not in all, as in the tenancy of houses or land.

3. An individual has not the absolute ownership of his own life; it is qualified, since life is for use only. Nor has he the absolute right over the ff e of any other human being, but legitimate authority may deprive a justly sentenced criminal of life, and an unjust aggressor, whether in or apart from a just war, may be repelled with all necessary violence, even to death.

4. Man's bodily members and functions are for his use only; he may not, without a compelling just reason, deprive himself of any of them; neither may he mutilate another, unless justly empowered to do so by supreme legitimate authority or in self-defence, as in a just war, or against unjust aggression, or with the consent of that other for some great benefit of bodily health which cannot otherwise be secured.

5. Man can own external things for his exclusive use, including land, for the progress of the family requires this, and it cannot be secured in any other way that will satisfy the aspirations of man.

6. Man has absolute ownership of his reputation, but he must guard it if God's honour or service, or the good of the State, or of the neighbour, require that he should do so.

7. Slavery is not opposed to the principles of Natural law, but as it generally existed, it was open to such grave abuses that it had to be abolished.

8. The product of a man's art, skill, painting, writing, etc., belong to him to the extent that he is entitled to derive reasonable profit from his labour. Consequently the law of patent rights and copyright is just, and after judicial sentence in a case when either has been violated, the sentence is just and must be fulfilled.

SECTION 4. The Subject of Ownership

i. Only physical or moral persons are capable of ownership, since they alone can use things for the purpose of self-development or social progress.

2. All living human beings, not excluding infants *in utero,* have a right to life, bodily integrity and sustenance.

3. Societies within the framework *of* the State have the right to own property, provided that they do not harm the common good. The State has no right to forbid the establishment of such societies, though it can restrict the administration of their property if necessary for the common good.

4. A minor can possess personal property, though the usufruct of it can be restricted by law. Parents must administer such property for the benefit of their minor children. A minor working in his father's name and as his agent has no right over his father's property or profits. But the Court might, after his sixteenth year of age, allow him to keep his separate earnings, though he may be obliged by charity to forgo them, wholly or in part, on behalf of his parents, brothers, or sisters.

5. A wife has independent rights over her separate estate, real or personal, and rights to her separate earnings and to debts owed to her. She may contract debts during coverture which her husband must pay if she had his authority to contract them, or if the object of the contract was a necessary domestic one, but a husband may withhold his credit, except for what is strictly necessary for the family maintenance.

6. The Church, being an independent society, has an indefeasible right to own property without any regard to civil formalities, though it warns its members to pay respect to and fulfil these in order to avoid uncertainty of ownership and litigation.

7. All religious societies within the framework of the Church have the power of owning property, unless contrary provision is made by the Holy See.

8. Clerics who are Religious under the vow of poverty can own and dispose of property, except in so far as the Church restricts its administration in some respects. The estate of clerics comprises what they receive from inheritance, legacy, gift, or any secular source, or in view of their sacred ministrations, such as stole fees for marriages, Baptisms, Masses, funerals, which, however, may have to be pooled and ratably divided between parish priest and curate.

9. The fruits of a benefice also belong to the beneficed cleric, but the superfluous remnant must be given to the poor or some pious cause.

10. The cleric may, however, keep as his own what he has saved by economical living from the amount allotted to him for his maintenance. In England and Wales certain offerings of the faithful, and certain moneys, constitute the benefice by diocesan statute for the priests on the mission, as, for example, by the Liverpool diocesan decree, parochial revenue is derived from offertory collections, entrance money freely given, house-to-house collections, bench rents, income from property, foundations and interest, charity sermons, sales of work and bazaars.

SECTION 5. Titles to Ownership

A valid tide to the ownership of a chattel or land is essential. Valid tides are occupancy, accession, prescription, and contract.

1. Occupancy

(a) Occupancy is a primitive title and a natural one. It consists in the actual taking of a thing which has no owner, with the intention of making it one's own, if it can be the subject of ownership. This title is now applicable only to things that are found, or animals *ferae naturae* that are caught, but particular law may limit the dtle, as in the case of treasure trove, waifs, strays, wreckage.

(A) Things that are found may be such as never had any owner *(res nullius},* or such as have been deliberately abandoned *(res derelictae},* or property left ownerless *(bona vacantia},* or things recendy lost whose owner exists though unknown *(res amissae}.*

(c} The rules applicable to occupancy in a broad sense are as follows:

(i) If a chattel that has obviously been lost is discovered, there is no obligation ofjustice to take possession of it, but charity may oblige the finder to do so, especially if the article is valuable or very useful.

(ii) If the lost chattel is taken up, there arises an obligation ofjustice, to o\vner and restore it to him.

(iii) If the finder has used up the chattel in good faith after vain attempts to find the owner, he is not obliged in justice to do anything, unless the original owner becomes known, and though the chattel no longer exists, the finder has its equivalent. He must then restore that equivalent.

(iv) If the thing found had.natural product, both the thing and the product must be restored.

(y) If the finder gave the thing away in good faith after fruitless attempts to find the owner, he is under no obligation in justice if the owner is discovered later, but he is under an obligation of charity to tell the holder who the true owner is, or tell the owner where the thing is.

(vi) If the finder sold the found chattel after fruitless attempts to discover the owner, he is obviously the richer, so that the following rules apply:

If the sale was in market overt and in good faith, he is under no obligation injustice to do anything.

If the sale was a private one, and if the holder restores the chattel, or is forced to do so, it is commonly held that the seller must restore the purchase money to the buyer.

(vii) Animals that are domestic, or so tamed that they return to their accustomed place of abode, cannot be taken legitimately. But wild

animals which cannot be regarded as being under the power of anyone because they roam at will, may be taken, provided that no harm is done to the estate on which they arc taken. Wild animals kept in strict enclosure so that they cannot escape, may not legitimately be taken.

2. Accession

Accession is a valid title to ownership whereby the owner of the principal object becomes the owner of the accessory increment. Increment can accrue naturally, as by fruitage of trees, pregnancy of animals, or artificially, as by building, embroidery, painting with material belonging to another. The rules on accession are as follows:

(0) The several owners of the principal and accessory objects may invoke the law and take benefit by it.

(6) In natural accession, the increment belongs to the owner of the principal object, though in some cases law may determine otherwise.

(c) In specification (as making bread from another's flour, or a ring from another's metal), the owner of the original substance has the right to compensation.

(</) In mere juxtaposition, as when a gem is inserted into a ring, the owner of the ring can demand separation of the articles, or may demand compensation.

(e) In commixture of solids, as of grain, if separation is possible, it may be demanded; if not possible, compensation must be made. In confusion of liquids, separation cannot be made and compensation may be demanded.

3. Prescription

(a) Prescription is a legal title to the ownership of a thing or a right, or to the extinction of a right, by possession or non-user in accordance with legal principles.

(à) Both Canon law and State law admit the force of prescription in transferring and extinguishing ownership and rights.

(c) The conditions required in order that prescription may give a title are that the object is subject to such title, that good faith prevailed in establishing the title, that the title was *prima facie* a good one, that possession or user was actual and was exercised for the legal period, that it was peaceful, open, and exercised as of right, that is, not by request *(nec vi nec clam nec precario).*

(rf) Liberative prescription frees a tenement (the servient one, as it is called) from some right of user exercised by another tenement (the dominant one). Acquisitive prescription gives a positive title to ownership or right of user.

(e) Canon law accepts the dispositions of civil law in the matter of prescription with some exceptions (c. 1509).

4s Contract

Contract as a title to ownership is dealt with as a separate subject later.

CHAPTER VUI

INJUSTICE

SECTION 1. Injustice in General

1· ACT injustice is the violation of the right of another. Such violation may be positive, as in theft, or negative, as by omission to act when one should have acted, and if there was resulting injury' to another.

2,_ Legal justice is violated by doing harm to the common good. Distributive justice is violated by a ruler who does harm to his subject. Commutative justice is violated by the invasion of a specific right of an individual or a corporate body.

3. All men are morally bound to act justly and to refrain from acting unjustly, because God has given rights to every man and every legitimate society. Without mutual justice, man could not order his life so as to achieve his natural perfection and perform his sendee to God, his neighbour, himself, his family and the State. The gravity of the violation of justice depends on the amount of harm done. The sin of injustice can be committed internally, for it is sinful to wish or intend to do harm, or that harm may come to another.

SECTION 2. Theft and Rapine

1. Rapine is the unjust taking by force of what belongs to another. This sin is contrary to both justice and personal immunity, that is, it is both really (materially), and personally unjust.

2. Theft is the taking without violence of what belongs to another against that other's reasonable wish. It is, of its nature, a grave sin, but if the injustice is slight, the sin is slight, at least so far as justice is concerned; it may, however, be a grave sin against charity.

3. Theft may do grave harm to either an individual or to society. When the individual harm is considered, a relative standard must be taken, but when a wealthy corporate body or individual would not suffer grave harm by even a considerable theft, an absolute standard must be taken, that is, the harm to society in general must be taken as the standard; this is termed the absolute standard. Thus, a millionaire would not greatly feel the loss of £100, but society must be safeguarded

against such grave thefts, not only by law but by moral sanction. The^ amount that could be a slight injustice against an individual could be a grave injustice against society. The standards vary for different countries and for different times. The absolute standard will be greater where money is more plentiful and therefore of less value.

4. In regard to the relative standard, it appears reasonable to hold that it would be a serious injustice to deprive an individual who works for his maintenance of a day's wage, or of what would suffice for one day's expenses for himself, his family, all things taken into account.

5. In regard to the absolute standard, that is, the amount which, if stolen, would be a serious offence against society, it seems reasonable to hold that the sum of £8 would be grave, but as wages increase, this sum would increase. In England from 1949, wages were high, so that it would seem that not less than £8 would be the absolute sum. This estimate is arrived at by consideration of the common estimate of theologians before 1914. At that time it was generally thought that the sum was *£1* to £2. Money has depreciated greatly since then. It may seem exaggerated to hold that it has depreciated so much. But in taking /^8, we are taking what would, we believe, be certainly grave. Others might put the amount at £5 or *£6*. But it seems best to err on the generous side. Again, the cost-of-living index figure, being taken as 100 in 1914, that of 1949 is over 300. That would mean that relatively to 1914, the absolute sum would be at least £3 to *£6*. Since wages are still rising, the absolute sum is also rising. We think £3 much too small, and £6 doubtfully sufficient.

6. There are some other relative standards to be considered:

(a) In the case of theft by a member of a wealthy family from the resources of the family, the grave amount of theft will probably be twice the absolute sum (probably £16). Λ/.A.

(£) If the family is not wealthy, the relative amount will be necessary to constitute a grave theft.

(c) In the case of theft from a company, or a society of several persons, the absolute standard as stated must be adopted, unless the company is indigent, in which case a relative standard must be adopted.

SECTION 3. Petty Thefts or Damage

(a) Petty thefts or acts of damage can, as a fact, coalesce and constitute grave injustice.

(ά) Petty thefts coalesce if the thief had, from the beginning, the intention of reaching a grave amount. They also coalesce if the several thefts are hoarded. Even apart from any intention of reaching a grave amount, and apart from the fact of hoarding the several thefts, petty thefts coalesce in fact if the several thefts are separated the one

from the other by short intervals, that is, short intervals establish a moral continuity between the several thefts. It is held on good authority that if the several thefts are considerable, but short of the grave amount, whether relative or absolute, intervals of two months prevent them from coalescing. The reason for the principle is that neither society nor the individual feels the loss so much if thefts are intermittent, as they would if the thefts were morally united. Since therefore the loss differs, the injustice must also differ.

(c) When petty thefts coalesce owing to short intervals, probably the grave amount will be twice the ordinary relative or absolute amount.

Mill litted against several persons, no individual suffering grave harm, the grave amount will probably be twice the absolute sum.

(e) If the several thefts are committed against one individual, a grave amount in one category (money, or clothing, or chattels), would be what is relatively or absolutely grave as the case may be. If, however, the several thefts were in different categories, as thefts of money, clothing and other things, then the absolute amount would not vary, but the relatively grave amount would be what constitutes the monetary relatively grave amount.

SECTION 4. Taking not Theft

1. Extreme Necessity

When a person is in extreme necessity or imminent danger of being so, he may take possession of another person's property under certain conditions:

(a) The necessity must be genuine not imagined, and extreme, or imminently likely to become so.

(ȯ) The person in need must first ask for relief if there is a reasonable expectation of getting it.

(cj Only so much may be taken as will relieve the present need.

(rf) The relief may not be taken from one who himself would in consequence be reduced to extreme need.

2. Occult Compensation

Occult compensation is the act of one who takes secretly from another what that other owes him. That it may be justified the following conditions are necessary:

(a) The debt owed must be a debt of justice.

(£) The debt should not be recoverable except by occult compensation.

(c) The debt must be certain, not merely probable.

(<) The thing taken should be in the same category as the thing owed.

(?) Accidental additional loss to the debtor should be prevented.

SECTION 5. Restitution —General Principles

1. Restitution is the reparation of a violated right. It is prescribed by Natural law, for so long as restitution is not made, if it can reasonably be made, injustice persists.

2. The reparation of a grave injustice is a grave obligation. If part of the injustice, as in theft, is repaired, and the remnant is not grave, the obligation to repair that remnant is slight.

3. Restitution must be made as soon as reasonably possible.

4. Restitution for goods of one kind by means of goods of another kind is not of obligation, unless imposed by a just law, as damages imposed for slander.

5. If complete restitution cannot be made, partial restitution must be made if possible.

SECTION 6. The Grounds of Restitution

The two grounds of restitution are retention of what belongs to another and unjust damage. Cooperation in either entails, of course, the obligation of restitution; it may be regarded as a third ground of restitution, and it is treated as such.

I. The first ground of restitution—retention of what belongs to another.

I/ (a) The possessor in good faith.

A possessor in good faith is one who retains or retained another's property without conscious injustice. The following rules determine his obligations:

(i) When he discovers the fact that he holds another's property without title, he must restore it to its owner at once, if possible. But prescription (if sanctioned by law), and purchase in market overt, give him a good title. If he has consumed part of the property which he held, he must restore the remnant. He has no obligation in regard to what he consumed in good faith if he is not the richer, that is, if he has not the equivalent.

(ii) If the thing held has depreciated in value during possession in good faith, the possessor must restore it as it is, but if its dépréciation benefited him, and would have benefited its owner in the same degree, he must restore both the thing and the benefit, but he may retain any gain due to his own industry.

(iii) If the thing held has increased in value he must restore it as

it is, though he may deduct what he expended, if such was the case, in improving it.

(iv) If he wilfully delayed to make restitution when he could have made it, he has become a possessor in bad faith and incurs all that person's liabilities.

(v) If the true owner cannot be traced, the possessor who began possession in good faith may keep the chattel and use it as he wishes. If, after its consumption, the owner is discovered and the former possessor retains some material benefit of value from his use of the chattel, he must restore that benefit, except that he may compensate himself for the expenditure of his industry, if any.

(vi) If he bought in good faith what had been stolen and bought in market overt, he_may keep the chattel until the rightful ownei~ convicts the thief; he will then be obliged to restore the chattel, and may sue the thief for the recovery of his purchase money.

(vii) If, in good faith, he .bought a stolen chattel bv private deal and discovers the true owner, he mav resell the chattel to the thief, if that is the only way of recovering his purchase money, but he may not do so after the owner has claimed his property.

(viii) If a stolen chattel held in good faith perishes through loss, destruction, or consumption, the possessor in good faith is under no obligation to restore anything to the owner when discovered, unless he is the better off by his possession of another's property. Obviously, any natural Increment of the thing held must be restored to the owner, but the possessor in good faith may justly compensate himself for any expense he incurred in preserving the increment or caring for it.

(&) The possessor in bad faith.

A possessor in bad faith is one who knowingly has another's property unjustly. The rules which determine his obligations are as follows:

(i) If he has the thing he must restore it as soon as possible. If he cannot restore the actual thing, he must restore its equivalent. He may, however, defer restitution if he cannot restore at once, but meanwhile he may not use the thing as his own so as to derive any material benefit from it, or cause it to depreciate.

(ii) If he bought it he may resell to the vendor.

(iii) If he has destroyed, or given it away, or sold it, being all the time in bad faith, and if the owner cannot recover, he must restore the value of the thing to the owner.

(jy|) If the thing has accidentally perished in consequence of jts unjust detention, he musF repair the owner's loss; but if jt would have perished in anv case, even in the possession of its owner, no reparation need be made. But if the owner suffered loss during its unjust detention, that loss must be repaired.

(v) If the thing would have perished in its owner's possession, but was retained in bad faith, it must be restored, but the possessor may compensate himself for having preserved it.

(vi) If the possessor in bad faith consumed the thing under circumstances in which the owner would have lost it, probably no reparation need be made.

(vii) If the thing, during its unjust retention, fluctuated in value, the following rules apply:

If the owner would have sold it for a given sum, that sum must be restored if the thing cannot be restored.

If the variation in its value took place by natural increment, or improvement without any effort on the part of the possessor, the whole enhanced value must be restored, if the thing and its increment cannot be restored.

J/ (c) The possessor in doubtful faith.

/ This possessor is one who has probable reasons for thinking that the thing which he holds belongs to another; his obligations are as follows:

(i) He must make reasonable inquiries as to his title of possession. If his efforts are fruitless, he becomes a possessor in good faith. Jf he neglected to make inquiries he becomes a possessor in bad faith. If there was no t in omitting to make inquiries, and if he has consumed the thing, or if it has perished, no restitution need be made, except to the extent to which he is the richer, taking compensation, however, for his own industry, trouble, or skill, whilst retaining it.

(ii) If he bought the thing or received it as a gift from one who was himself in doubtful faith, and whose good faith was reasonably suspect, and if the doubt persists, he must, as above, make reasonable inquiries and act as above.

Note.

The case of doubtful debts has given rise to different opinions. It appears consistent with the principles of probabilism—though some authors deny this—that doubtful debts need not be paid so long as a probable debtor has good reasons for thinking that the debt is not certain. But he is not excused from making reasonable inquiries.

2. The second ground of restitution—unjust damage.

(a) That there should be a clear obligation of repairing damage done to another, the following conditions must be verified:

(i) The damage must have certainly ensued.

(ii) The act done must have been the real and effectual cause of the damage.

(iii) The act of damage must have been deliberately unjust.

(ά) If A has prevented B from obtaining some advantage or averting some misfortune from himself, the following rules apply:

(i) If B had a strict right to what A deprived him of, the latter is bound to reparation.

(ii) If B had no such right, but was prevented by unjust means, such as calumny, lies, fraud, from doing what he proposed to do, then A is bound to reparation, but if B cannot obtain the benefit he sought without sin, A is not bound.

(c) Condition of reparation—moral fault.

In regard to this condition, it is to be observed that a grave obligation of reparation arises only from a grave fault in a grave matter. If there was no moral fault, no reparation need be made so far as justice is concerned.

SECTION 7. Reparation in Some Particular Cases

1. Reparation for Spiritual Harm

(û) Spiritual harm can be done in regard to either natural or supernatural good.

(ά) If A has been induced to sin by B, through violence, fraud, lies, fear, etc., the cause must be removed at once, and the harmful effects must be repaired as far as possible.

(c) If A has been led by B into an error that has a practical bearing on the moral life, the error must be revoked and corrected, and the foreseen effects must be repaired as far as possible.

(cT) To deter another by the employment of violence, fear, or fraud, from obtaining some spiritual good, such as life in religion, is a sin against justice, and the unjust act must be discontinued, and the effect repaired as far as possible.

2. Reparation for Defamation and Dishonour

(a) Both detractor and calumniator are bound to repair the foreseen harm done by them. If it is not repaired, the injustice and the obligation persist.

(ὁ) Violated honour, if the result of injustice, must be repaired by showing honour in the circumstances in which it was violated.

3. Restitution for Physical Injury

Although unjust injury done to the bodily members of another cannot be repaired by monetary compensation, such compensation must be made if imposed by law. But foreseen loss due to such bodily injury, as loss of employment or expenses incurred, must be repaired. The fact that the injured person is insured does not exempt the unjust assailant from restitution to the Insurance Company. If loss ensues to the injured man's family, it is obvious that the man cannot condone the loss, for his family derive their right to compensation from the unjust act done, not from the father of the family.

4. Restitution for Certain Sexual Injustice

(a) If an unmarried woman was a willing partner in sexual sin with a man, no restitution is due to her; if she was not, reparation must be made to her if her chances of marriage had been lessened, and for any disease or sickness she has incurred, and for a child born. If marriage with the man is the only possible reparation, then marriage is obligatory; if other ways of reparation are possible, they may be offered, and if they are declined, marriage is not then obligatory.

(ά) If A promised marriage to B, and on the strength of the promise induced the woman, B, to have sexual intercourse with him, his obligation to marry her is not one ofjustice but of fidelity and honour. But he may decline to marry if he discovers or seriously thinks that marriage would be unsuitable or unhappy.

5. Restitution for Adultery

If both parties were guilty and offspring issued, each must share equally in maintaining it, or in compensating the husband in some effectual way. If no offspring issued, no compensation is possible. If the offspring is of doubtful paternity, it may be presumed legitimate until its illegitimacy is certainly established. But if several men were guilty of adultery with the same woman, and in consequence were themselves the cause of the doubtful paternity, each is bound to make reparation to the husband in some way in default of the others.

6. Military Service Evaded

(a) In the real need of a State, citizens are obliged to come to its help, and if military service is reasonably imposed, as sometimes would be the case, then citizens are obliged to obey. But the State cannot impose military conscription on those who, by ecclesiastical law, are forbidden to engage in military service of any sort.

(ὁ) Those who 'conscientiously' object to all war, even if it be just—a supposition which, of course, pacifists do not admit—-are the victims of gross error. The State need take no notice of their objections, since it is not obliged to respect erroneous consciences.

7. Evasion of Taxes

In a country's grave need, the payment of taxes, if they are just, js certainly a moral obligation. Apart from such need—and the citizen is not a judge in general of the need—the laws of taxation are regarded as penal only, so that they must be paid when exacted, though no restitution is obligatory if they are not paid. Nevertheless citizens may not on any account evade the payment of taxes by means of fraud, deceit, or lies. False income tax returns are a species of lying. Bribery qf tax collectors is cooperation in injustice, for the tax collector is

paid his wage for collecting taxes. There would therefore be an obligation of restitution on the part of both tax collector and him who bribed.

8. Abuse of Rationing

When materials of every-day use and foodstuffs are rationed, the regulations are not, it seems, merely penal, for they are just rules made on behalf of die common good. If citizens persistently use up food and other things (as petrol) beyond the ration allowed, they offend against legal justice and charity. In the long run, if the rationing rules are violated, there will be citizens who suffer in consequence of the selfishness of those who disregard the rules. A trifling offence against the rules would not be sinful, but it could be righdy punished by some legal penalty, which would have to be undergone in conscience.

SECTION 8. Cooperation in Injustice

It is possible to cooperate in doing injustice by counsel, command, consent, defence, praise, participation, which are positive ways of doing injustice, and negatively, by silence,, omission, concealment.

1« By Counsel

One who effectually persuades another to act unjustly, or shows another how to do so, is an unjust cooperator. Such a one is obliged to repair the harm done in default of the doer of the injustice. If he Lad effectually retracted his evil counsel he is not bound. If he advised the method of acting unjustly, and in default of the advice the act would not have been done, he is bound to prevent the injustice if he can; if he does not, he is an unjust cooperator. To advise another who is determined to do a grave injustice to do a lesser injustice against the same person is probably not evil advice; nor probably is it evil advice, if a lesser injustice against a different person is suggested.

2« By Command

One who commands another to do an injustice in his behalf is an unjust cooperator in the injustice done. He is obliged in the first instance to repair the harm done. Request, promise, threat, entail the same obligation. The agent, is bound to repair the harm, done in default of the other. If the agent suffer harm in the execution of the injustice, he who commanded the injustice has an obligation of repairing that harm, if the command was imposed by force.

3. By Consent

One who consents to an act of injustice about to be done by another

if an effectual abettor of the act, is bound to repair the harm done in default of the doer of it.

4. By Defending the 111 Done

One who shelters another who has done an unjust act so as to be the cause why th.çjauer make.S-DQ reparation U bound to repair the harm done in default of the doer. But to screen a friend for the sake of friendship is not necessarily to cooperate in injustice. One who buys stolen goods is bound to restore them to the owner, or at least to resell them to the thief, if that procedure is the only way of getting his money back.

5. By Praise

Praise, ridicule, fault-finding, flattery, may be efficacious ways of assisting in injustice. If they are §q, the person guilty of any of these is obliged in default of the doer to repair the harm done.

6· By Participation

(a) One who takes an active part in doing injustice is bound to repair the harm of which he was the culpable cause.

(b) If his cooperation with another was necessary to produce the harm, he is bound equally with the other tq repair the wholeJia·· done, that is, each is bound in default of the other.

(c) If there was strict conspiracy between several agents of injustice, each one in default of the others is bound to repair the whole harm.

(</) A person cooperates in injustice negatively, if he neglects to prevent injustice being done by his silence, passivity, or concealment. If he was bound by virtue of his office to prevent the harm, and culpably refrained from doing so, he is,obliged to repair the harm dope; those are thus bound who have some official trust or position, as parents, caretakers, masters, mistresses, employers.

SECTION 9. The Amount to be Restored

1. One who was the cause of the entire unjust harm is obliged to restore or repair the whole.

2. In cases of cooperation, the principal cause is bound to repair thgjwhole harm done; in his default, the other cooperators are severally bound.

3. When several persons are co-equal cooperators in doing injustice, if the act of each was sufficient,to. produce the entire, harm., each is bound to repair.the-whole-hann in default.of the others. If, however, <%ch of the several causes was only a partial cause of the harm done,

or caused only partial harm, each is bound to repair the amount of

4. If several agents conspired to produce harm to another, or if each was a necessary, though insufficient, cause of the entire harm, each is bound to repair the entire harm in default of the others.

SECTION 10. To Whom Restitution is To Be Made

1. In general, the victim of injustice is to be indemnified by the unjust agent when possible.

2. Restitution will be impossible when it cannot be made without injustice to a third party, or without greater harm ensuing than the harm done. Restitution may then be deferred, but the obligation is not extinguished.

3. If the State has suffered unjust harm, restitution may be made by gifts to the poor or public charities.

4. If a society has suffered injustice, but has no moral right to exist or to possess property, restitution must be made, not to its general funds, but to the individual members of the society. If such society has a right to exist and to possess property, even though it misuses its funds, restitution must be made to it.

5. A chattel stolen from a bailee or a borrower must be restored to him not to the owner, but restitution to the owner fulfils all obligations ofjustice.

6. A chattel stolen from A must be restored to his heir in case A fias died before restitution was made to him; in default of heirs, restitution must be made to the poor or charitable purposes.

7. If the owner of a thing possessed by A in bad faith cannot be traced or cannot be got at, it must be restored to the poor or to some charitable purpose.

8. If the owner of a thing which should be restored is one among several persons, reasonable means must be taken to find the true owner. In case this cannot be done, the following rules apply:

(a) If the owner is one among a few, the thing or its value must be divided amongst them, if possible.

(ά) If the owner is one amongst many in a given place, restitution must be made to the many, or to the poor of the place, or to some charitable purpose.

(c) If the owner is one of a set amongst many sets of a given place, restitution must be made to the citizens of that place, or if the thing is ofsmall value, to the poor, or to some charitable purpose.

SECTION 11. The Order of Making Restitution

1. If several persons were unjust to the same person in the same degree, all are equally bound to make restitution and no particular order in restoring is essential.

2. If several persons were unjust to the same person, the following rules apply:

(a) In the case of theft, restitution must be made in this order, namely, by the unjust possessor, the unjust consumer, the one who ordered or counselled the theft, him who executed the theft under orders or advice, except that if the thief alone was benefited, he is bound to restore in the first instance, then all other positive cooperators, and then all negative cooperators.

(δ) In the case of mere damage done, restitution must be made in the following order, namely, by him who ordered or advised the damage for his own benefit, by the agent, by all the positive cooperators, and then by all negative cooperators.

SECTION 12. The Manner of Making Restitution

1. Strict justice is satisfied by complete restitution whatever the manner may be.

2. Justice is satisfied if restitution is made even without the knowledge of creditor or debtor.

j. Restitution can be made by a supposed donation, though such a procedure may be deceitful and should then be avoided.

4. Restitution which is to be made by servants or workmen can be made by additional work on behalf of the employer if it cannot be conveniently made otherwise.

5. Any ordinarily secure method of making restitution may be employed.

o. If a stolen chattel cannot be restored without considerable expense (half of its value), restitution may be made by restoring its monetary value.

SECTION 13. Time and Place of Restitution

1. Restitution must be made as soon as possible, otherwise injustice persists. Culpable delay is added injustice and entails additional reparation if additional harm is done thereby.

2. The place to which a stolen chattel is to be restored must be consistent with the rights of the owner to take possession. If the chattel was held in good faith, it is sufficient to notify the owner of the place where the chattel is. If it was held in bad faith, it must be delivered at the expense, if reasonable, of the possessor.

SECTION 14. Causes ^"hich Excuse From Restitution

1. Physical impossibility' to restore, so long as it persists, excuses from restitution; so, too, does moral impossibility.

2. Moral impossibility to restore is the inconvenience that restitution would entail for the possessor or debtor, or for a third party, greater than the continued loss caused to the owner or creditor by' delayed restitution.

3. Restitution may be deferred if the owner or creditor is likely to make sinful use of the restored chattel or money.

4. Condonation by owner or creditor excuses from restitution, but it should not be too readily presumed.

5. A composition or arrangement freely agreed upon by both parties excuses *pro tanto,* as also does remission by superior authority.

6. An equivalent payment to a creditor of the creditor extinguishes the debt.

7. A gratuitous gift by debtor to creditor extinguishes the debt to that amount.

8. Equivalent indebtedness excuses from restitution.

9. Liberative prescription can extinguish a right and a debt. But this is to be distinguished from mere estoppage.

10. The poverty of the debtor excuses him for the time being, but if he has no hope to restore him altogether...

11. Probability that restitution has already been made excuses from restitution so long as probability' persists.

12. Absolute discharge of a bankrupt excuses from future payments of those debts which have been the object of the petition.

CONTRACTS

SECTION 1. Kinds of Contract

I. A contract is a mutual agreement between two or more persons, externally manifested, to do, or refrain from doing, certain acts, the promise of each party' being given for valuable consideration, or expressed in a particular form, as under seal, or by deed.

2. The contract may be unilateral, as in promise or gift; bilateral, as in sale; formal, specialty', or solemn, which is expressed in writing and under seal, and requires no valuable consideration, as contract

by deed; simple or parol, which is not made by deed; express, manifesting the terms of the contract; implied, which is created by such conduct as indicates an agreement; gratuitous, as loan for use; onerous, as hire; consensual, which is created by mere consent, as marriage; real, which requires the transference of some object, as loan; aleatory, as a bet; innominate; qualified; voidable.

SECTION 2. The Object of Contract

1. The object of contract must be possible, both physically and morally; it must exist in fact or potentially; it must be capable of precise determination and within the moral and legal power of each party to offer; it jnust be appreciable if one party offers temporal va^ue.

2. What is already due on grounds of justice cannot be the object of contract, as the maintenance of infant children by their father.

3. The object of contract cannot be what is morally evil. If such an agreement was made, it is termed immoral *(turpis)*. Such an agreement begets no obligation of performance *ante factum*; *post factum*, that is, if the agreement has been fulfilled by one party, the other party is only probably bound to fulfil his part if he can do so without additional sin.

SECTION 3. Subject of Contract

Any person having the actual use of reason can make a contract if not forbidden to do so by law, Natural, divine, positive, ecclesiastical, or civil, for just laws can lay down essential conditions for contracts, but civil law is not just if contrary to divine or ecclesiastical law.

SECTION 4. Consent in Contracting

1. Consent is the basis of a contract. It can be vitiated by mistake, misrepresentation, fraud, duress. Consent _mu§Ube_iru£, ÜlifiiaâL mutual, deliberate, free, and externally manifested,

2. Mistake is present when the contracting parties did not agree about the same thing. Mistake that is substantial renders the agreement void, but in law, a mistake will not avoid a contract unless one party induced the other party to make the contract by misrepresentation (even innocent), or fraud.

3. Misrepresentation is present when one party is misJed by statements even innocently made, or facts innocently withheld, by the other party. Such contracts are at least voidable. But in contracts *uberrimae* yid«,|as they are termed, as insurance, all material facts must be declared, otherwise the contract may be avoided.

4. Fraud takes place if one party deliberately misleads the other party with intent to deceive, or if misstatements are recklessly made. Such contracts may be avoided; mere non-disclosure of facts is not fraud.

5. Duress consists in any personal violence, or imprisonment, actual or. threatened, exerted by one party' on the other party7, or on that other party's wife or child, with the intention of influencing that other to make the contract. Such contracts are void in conscience and voidable in law, if avoided within a reasonable time after duress has ceased.

6. Undue influence is akin to, but less than, duress, but it can induce an obsession on the mind. Such contracts are voidable.

SECTION 5. Consideration

Consideration means the offer of something by one contracting party to the other. Apart from contract under seal, consideration gives evidence of a contract made. Valuable consideration is the offer of money or of something reducible to money value. Such value need not be a strict equivalent to the offer, except when money is given for money. Promise is a valuable consideration for a promise in cases of betrothal. Marriage is a valuable consideration for a promise of money. In conscience, mutual agreement is sufficient without any valuable consideration, provided that the parties are capable of making a contract, and that no law binding the conscience forbids them to do so.

SECTION 6. Effects of Contract

1. The obligation of fulfilling a valid contract is one of commutative justice and binds the contracting parties only. The gravity of the moral obligation depends on the intention of the parties, which can be gauged by law, custom and usage. A contract made under oath binds in virtue, of both justice and religion.

2. A contract made conditionally on a past event is at once valid if the event has taken place. A contract made conditionally on the happening or the not happening of a future event obliges the parties to await the future issue, and not to prevent it happening.

3. Damage for breach of contract, or earnest money to be paid if the contract is not fulfilled, may be made matter of additional agreement.

SECTION 7. Termination of Contract

I. Contract is terminated in accordance with the terms of the contract, or equivalently, but the parties may agree to discharge it by new valuable considerations.

2. Contract, if parol or simple, whether verbal or written, may be terminated by mutual agreement, but the marriage contract cannot be terminated by the consent of the parties.

3. Rights to enforcement of contract can be extinguished by law. But a contracted marriage cannot be set aside by civil laws; the recovery of bets is unenforceable in law, but this fact does not extinguish the obligation in conscience of paying them.

CHAPTER X

SOME PARTICULAR CONTRACTS

SECTION 1. Promise

I. A simple promise is a gratuitous unilateral contract. It binds in conscience, though it is not legally binding unless some valuable consideration is offered, or it is made under seal. The obligation of a promise *is perse* one of fidelity and is light, but it can bind the promissor in justice, if he wishes so to bind himself, and then it would *per se* bind under grave sin. That a promise should bind in conscience, it must be accepted, and the acceptance must have been manifested by the promissee.

2. The obligation of a promise lapses if circumstances change the nature or matter of the promise, or if fulfilment becomes unlawful, useless, impossible, or immoral, also by release, and by any factor that would terminate the contract, as by the death of the promissor unless he bound his heir to implement the promise.

SECTION 2. Gift

1. By gift, one party passes property to another. In law, this contract must be made by deed and is irrevocable. Gifts *inter vivos* are made during the lifetime of donor and donee. Gifts *mortis causa* are made in contemplation of the death of the donor and by one suffering from an illness. The intention must be to make an immediate gift, subject to the condition that the title to the gift shall pass on the death of the donor and only then.

2. The contract of gift is good in conscience when the gift is accepted.

3. Gifts to the Church, or pious or charitable causes are valid in conscience apart from all legal formality.

SECTION 3. Last Will and Legacies

1. A last Will has some analogy to unilateral contracts and is treated with contracts. The beneficiary' under a Will need not accept the benefit, but if he does, he must fulfil all annexed obligations that are morally correct.

2. A Will is the voluntary' and revocable declaration of a person's intention, to be carried out only after his death, in regard to his property and to whatever property' he is possessed of at his death, in so far as he can dispose of it, and also in regard to his place and mode of burial. It is supposed that the said testator is capable of making a Will.

3. A codicil is a written declaration of intention which modifies a Will already made.

4. A specific legacy is a gift which the testator separates from his general estate, and bequeaths to some one, termed the legatee.

one who has not the use of reason, one of unsound mind, a minor (but minor soldiers and seamen can make Wills), one who suffers from a delusion and is influenced by it, one in a state of intoxication, one who is subjected to force, fraud, or undue influence, and apart from Apostolic permission, religious persons who have taken a solemn vow of poverty.

6. All persons, even minors, who have the use of reason, arç çpm-petent witnesses to a Will if they understand what they are doing.

7. Legacies bequeathed to the Church, or pious, or charitable causes, are valid even without legal formalities, so that beneficiaries under a Will must in conscience fulfil the wishes of a testator in these matters. But the Church wishes all legal formalities of Wills and legacies to be carefully complied with.

SECTION 4. Loan for Consumption (mutuum)

1. This is a contract by which a loan is made of money or anything else that is consumed in its first use, on the condition that the equivalent in kind shall be returned at some future time. Such things are termed fungibles, as money, bread, wine. The loan is usually gratuitous, but interest may be charged on money lent, not in virtue of the contract, but on the ground of an extrinsic title, as will be explained later.

2. The reason why this contract is wholly gratuitous is that the whole value of the thing lent consists in its use. It has no other value, and therefore when the equivalent in kind is returned, complete compensation is made.

3. The borrower is bound to return the equivalent of the loan at the fixed time. The lender is bound to refrain from claiming the return of the loan before the fixed time except in unusual circumstances. He

must warn the borrower of any injurious qualities which the thing lent may have.

4. The virtue of charity obliges us to lend to others in their need. Lending is a form of almsgiving.

Note on Interest

(a) No interest on money lent may be charged for the mere use of the money, for money has no other value except its use. If interest were charged for the mere loan, a sin of usury would be committed. Usury is not excessive interest, though it is often so understood.

(b) But interest may be charged on a loan of money in virtue of extrinsic grounds which have nothing to do with the mere fact of the loan. It is incorrect to maintain that interest may be charged if the loan is productive, but not if it is not productive. The productivity of a loan is not the lender's in any sense, and he cannot charge for it.

(c) The extrinsic titles which justify interest on loans are actual loss sustained by the lender, the forgoing of profit which would certainly have accrued to the lender, unusual risk incurred in lending the money, penalty agreed upon by both parties in case of default, legal interest.

SECTION 5. The Contract of Sale

1. Sale is a contract by which the seller transfers the ownership of something to a buyer at an agreed price. The price must be just; it is just if it is the legal price, or the ruling one, or where neither is known, or does not exist, the price agreed upon by both parties without deceit or undue pressure.

2. The common or ruling price is fixed by the common judgment of buyers and sellers. This varies between the highest and the lowest just prices.

3. To sell above the highest just price, or to force prices down below the lowest just buying price, is ordinarily a sin against justice and entails restitution.

4. The common or ruling prices apply only to articles of daily consumption, use, or commerce, not to curios, articles of exceptional luxury, nor to antiques, pictures, and other works of art or skill. The just prices for all of these and similar things are what the parties agree upon without deceit or duress.

5. It is permissible to sell at the ruling price, though the seller knows that the thing bought will soon depreciate; it is not unjust to buy at the ruling price, though the buyer knows that the thing bought will soon command a higher price. But the procedure could sometimes be contrary to charity.

6. A seller is not obliged spontaneously to disclose merely accidental

defects in what he sells, provided that the article is fit for fulfilling the purpose for which it is bought. But if a seller is asked by a buyer about such accidental defects, he must either disclose them, or decline to guarantee the article.

7. To seU adulterated aterial as pure is not unjust if the mixture is practically as good in use as the pure article. But buyers usually take the risk of not getting quite what they ask for, and if neither deceit nor duress is employed, and if the buyer has the opportunity of examining the article which he is buying, *caveat sibi emptor,* he takes the risk.

8. Black marketing is against justice if an unjust price is demanded for the necessaries of life; it is against charity if it excludes poorer citizens from purchasing the necessaries of life.

Note on Hire and Purchase

The hire and purchase system of buying goods, especially furniture, which is an expeditious way for newly-married persons of furnishing their homes, is useful and legitimate, but open to abuse and injustice. When people resort to this method of buying, they are supposed to be acquainted with the law, which righdy defends the seller. Nevertheless when a money instalment has been omitted through no fault of the buyer, and if it will be made up, it appears unjust that all past instalments should be forfeited as well as the article itself. But sellers have to recoup themselves for wear and tear of an article which has been used. But when one-third of the hire purchase price has been paid the owner cannot enforce his right to recover otherwise than by action (Act 1938).

SECTION 6. Auction

1. An auction is a public sale of goods to the highest bidder, unless a reserve price has been fixed by the seller. When the auctioneer accepts the bid by the fall of the hammer, the contract is completed.

2. The goods put up to auction must be truthfully described; mere exaggerations do not deceive the bidders.

3. If several persons conspire to interfere with the sale by keeping the price low, or preventing others from bidding, the sale may be called off.

4. A knock-out is created when parties agree not to bid against one another after a certain price has been reached; the article then sometimes falls to the highest bidder of the group, and is put up for private sale among members of the group, or is sold at a commission. This is what is termed a ring; it works against the seller and is practically a conspiracy to keep prices lower than would rule in free bidding. It is not, however, unjust to ask other bidders not to bid, if one bidder wishes an article, and a reasonably just price is offered.

SECTION 7. Loan for Use (commodatum)

1. This is a gratuitous contract in which A, for example, lends to B an article for use for a specified time on condition that it is returned to

2. The lender is bound to reveal to the borrower any known defects in the tiling which might be likely to render it dangerous, whilst it is being used for the purpose for which it was borrowed. If he fails to do so, and if the borrower suffers harm in consequence, the former is obliged to repair the harm. The lender may not demand the return of the thing before the agreed time except under unforeseen circumstances.

3. The borrower is bound to exercise that amount of care and skill in his use of the thing which any prudent man would exercise in using his own property, and even special skill if such be required. He may use the thing lent only for the purpose for which it was lent. He must restore it at the fixed time, and in the condition in which it was when lent, allowing for reasonable wear and tear. The right to use the thing borrowed is wholly personal, unless other arrangements were made.

SECTION 8. Deposit of Chattels (Bailment)

1. The contract of deposit is one in which the depositor places some movable in the custody of a depositary or bailee, to be kept for him *gratis* or for payment, and returned to the depositor when demanded.

2. A depositary is bound to exercise that care and skill in taking and keeping the thing which any prudent man would exercise in regard to his own possessions, and greater skill if such is required.

3. If the deposited article is a stolen one, the depositary may return it to its owner; he must withhold it from the depositor, if the latter is likely to use it to the harm of a third party.

4. If the deposited thing has perished or deteriorated owing to the culpable fault of the depositary, the latter is bound to make reparation; if the fault was only a legal one and not blameworthy, he may await the decision of the Court.

5. It would not be unjust if the depositary used the article, if he is certain that he will be able to restore it at the fixed time. He may retain any increment due solely to his own industry or luck.

6. The depositor is bound to reveal any defect or quality in the article which might prove harmful to the depositary.

SECTION 9. Stakeholder (sequester)

I. A stakeholder holds money wagered by two parties who lay a wager one with the other about some future or unknown event or fact,

both agreeing to pay the money staked to the party who wins. Since every such agreement by way of gaming or wagering is legally void (Gaming Acts, 1845, 1892), deposited money held by a stakeholder for the winner can be legally recovered if, before payment to the winner, the other party gives notice to the stakeholder that he has called off the bet and wishes his money to be returned. But as in the case of a bet, it is unjust not to pay the lost bet or stake, provided that the object of the bet or wager was morally correct. The law merely declines to enforce payment of bets.

SECTION 10. Monopoly

1. Monopoly is the exclusive right or act of selling certain commodities or services. It can effect great saving in overhead expenses when it is a large one, and can give good return to investments, but it can do harm by keeping trade within its own circle and charging high prices.

2. The infringement of monopoly rights is merely illegal, if the monopoly is a legal one, but not contrary to commutative justice.

3. All monopolies must be conducted on the principles of justice and charity. Private monopolies may not sell above the highest just price that would rule if they did not exist; if they do so then, like individuals, they are bound to desist and to make restitution. In the case of State monopolies, very high prices represent indirect taxation.

4. If all the sellers of a given commodity establish an actual monopoly, they do not act unjustly if their prices are just; but if their prices for the necessaries of life are beyond the means of the poor, they offend against charity and must desist.

5. A socialist State which takes all business into its power offends against legal justice, for private societies have the right to exist if they do not harm the common good. The intention of a State to destroy capitalism and take ownership of all productive means into its hands cannot be defended.

6. Trade Unions attempt to establish a monopoly of labour. In so far as they benefit the workers—and they certainly have done so—they are to be commended. In so far as they tend to limit the legitimate activities of capitalists, or of non-Union workers, and approach a socialist State, they are to be condemned. They are as much a private society as the one man who has a few workers under him. They tend to press the solidarity of the workers beyond all reasonable limits, for they can, and sometimes have attempted to, hold up to ransom the whole body of citizens. In so far as they do not acknowledge that they are a part of the State and subject to just laws, their existence cannot be justified.

When, however, they are regulated by just laws, when the officials enforce their members to obey their rulings, when they accept wise

arbitration, then they arc serving the public. They then raise the standard of living for the worker, they oppose effectually the exactions of unjust employers, and secure decent conditions of work. But when they go beyond their metier, as they tried to do in laying down a policy of education for all children, they forgot the reason and justification of their existence.

SECTION 11. Hiring

1. The contract of hiring is one by which a letter allows a hirer to use something for a valuable consideration for a fixed agreed time.

2. The letter is bound to warn the hirer of known dangerous qualities or defects in the thing let; if he culpably fails to do so, and harm comes to the hirer in using the thing, the former is bound to make reparation.

3. The hirer is bound to pay the agreed price, to take reasonable care of the thing let, to use it only for the purpose for which it was hired, to restore it at the fixed time and in the condition in which it was when let, allowing for reasonable wear and tear.

4. If the thing let has perished or deteriorated or has been lost without fault of the hirer, he is not bound to restitution until obliged by the Court, but if he was culpably negligent, he is bound to restitution in proportion to his negligence, even before sentence.

SECTION 12. Employment

1. The employment contract here considered is that between master and servant. In virtue of this contract, a servant agrees to work for valuable consideration, as wages, board, and lodging, gifts by the master's guests, or any other equivalent consideration. The contract can be terminated in the case of domestic servants by a month's notice given by either to the other, or by the gift of a month's wages by the master. But a servant may be dismissed without notice for wilful or habitual neglect, gross incompetence, or misconduct. The master is not then bound to give the servant a character, and if he does, he must state the truth.

2. Servants have no legal or moral right to appropriate leavings, except of a trifling amount, or perquisites, unless the master gives at least tacit leave. They may not dispose of anything belonging to the master except trifling amounts of food to those in want, if the master has not forbidden this procedure, as he well may, owing to a social duty of not encouraging indiscriminate begging by those who are vagabonds and lazy.

3. A servant is bound to perform the work agreed upon, to do it effectively, not to waste his master's time or property, to show due respect to those in legitimate authority over him, obey legitimate

orders, and take particular care of what is entrusted to him within the terms of the contract.

4. A master may not deduct part of the servant's wage for breakages, even if they were culpable, but he may exact restitution, and the servant is bound to offer it if the harm done was culpable.

SECTION 13. Principal and Agent

1. An agent is one who has authority to act on behalf of his principal, who in turn is responsible for the acts of his agent within the limits of the agency.

2. An agent may not make any profit in connexion with his agency without the express consent of the principal. Nevertheless he may keep any gain which is due to his out-of-the-way diligence which he was not obliged to exercise, and gifts received, provided that his principal's interests do not thereby suffer. But he may render himself liable to prosecution under the Prevention of Corruption Act, 1906, unless he acts with the most scrupulous honesty. Few confessors will know the intricate nature of agency, so that *ante factum* no opinion should be hazarded as to the morality of a given act by the agent, but *postfactum*, it may be possible to say whether restitution should be made or not.

3. An agent must always act in the strictest good faith and for the interests of his principal. The principal is bound to pay a just wage to the agent according to agreements, even if the agent fail through no moral or legal fault in a transaction.

SECTION 14. Partnership

1. The contract of partnership is one in which several persons expressly agree to carry on some business in co[illegible] on, with a view to profit. The partners are the firm.

2. Every member of the firm is an agent of the others for the purposes of the business of the firm, and every act of each partner done in the usual way of business for the firm binds the firm and all the partners. Each partner is liable for the contracts of the others to the full extent of his means, except in Limited Liability Companies.

3. Partners are bound to render exact accounts and full information to every partner in all details which affect the business of the firm. They must account for any benefit derived from their work in the firm's business.

4. The Act of 1907 provides that limited partnership may be formed, consisting of general partners and limited partners, the latter being liable to the extent of the capital which they have subscribed.

SECTION 15. Lease

1. Lease is a contract by which one person, the lessor, allows another person, the lessee, to possess and use some real property in consideration of a definite rent charge.

2. A tenant may not legally quit the leased premises without having given due notice, otherwise the landlord may recover a term's rent beyond the time of occupancy, reckoned from the rent day next after the tenant's departure.

3. At the expiry of tenancy, the tenant must deliver up possession of the leased premises and all buildings, erections, improvements, and landlord's fixtures. A tenant should remove his own fixtures (a term which is very difficult to define), without material damage to the premises which he quits.

4. A tenant must use the premises in a reasonable way, but he is not liable for mere wear and tear, nor is he bound to keep the premises in repair, unless that was a condition of tenancy.

5. Lodgers and boarders must take care of their own property, for a householder is not responsible for it unless by express agreement.

SECTION 16. Insurance

1. The contract of insurance is one by which one party, the insured, pays money, the premium, to another party, the insurer, who in consideration of the premium undertakes to pay the insured or his representative a sum of money, conditionally on his death or the death of some other, or on some future event that will cause loss or expense to the insured. The written form of the insurance is the policy.

2. The insured must have a pecuniary interest in the future event in question, but everyone is presumed to have a pecuniary interest in his own life.

3. In life assurance, the insurer must disclose all known material facts, since a false statement may avoid the policy.

4. When insurance money has been paid out to one who had been guilty of fraud or false statements when taking out his policy, if such affected in any material way the making of the contract, he is bound to restore the whole amount less the premiums he has paid, and the interest, making allowance for clerical expenses of the Company in his behalf. But though the contract could legally be repudiated by the Insurance Company, strict justice would, it seems, be satisfied if the insured person restored the difference between the premiums paid and those which he ought to have paid.

5. Failure to pay premiums at the specified times may avoid the policy, but Insurance Societies allow days of grace, and payment within

that period revives the policy. Furthermore, agents are accustomed to pay arrears of the insured occasionally, in order that they may not fall out of benefit, and such a kind act is also good business.

6. Socialists would do away with private Insurance Societies, and favour an all-embracing State insurance. But private enterprise should rather be encouraged. The agents of private societies treat people with more human consideration than do public officials. A slight economic advantage—which indeed is problematical—gained by State insurance is not an offset against the elimination of private business.

SECTION 17. Gaining and Wagering

1. The contract of gaming and wagering is an agreement between two persons to pay money or its equivalent on the determination or ascertainment of an uncertain event. "The essence of gaming and wagering is that one party is to win and the other to lose upon a future event, which at the time of the contract is of an uncertain nature, that is to say, if an event turns out one way, A will lose, but if it turns out the other way he will win" (Anson, *Law of Contract,* p. 221).

2. In gaming, the event on which stakes are laid is the result of skill. In wagering, the event is supposed to be beyond the power of the contracting parties. In gaming, the elements of pastime and stake are essential; in wagering, only a stake is involved.

3. That these contracts may be morally just—even though they are illegal—the chances of winning must be equal on. botLsides,

57 . 4. If A bets with money stolen from B, and having nothing of his own ! * · either actually or in prospect, the contract is null and void. If he wins, ftetfrrcfoj he cannot justly keep the money; if he loses, the party who won cannot justly keep the money.

•*5. It is obvious that fraud employed during a game of skill renders the contract void.

6. Betting on a certainty is no contract; the winner is bound to hand back what he has won. But if A foolishly insists on betting with B, who states that he is betting on a certainty, then A is making a gift.

7. A bet offered or taken on an immoral matter is null, but when such a bet has been won, and the money has passed, there is probably no obligation to restore it to the loser.

8. Betting is not in itself sinful. If a man can afford money to bet, he is using money for legitimate excitement and the chances of winning. But betting becomes sinful when the money laid is due to other purposes, or when probable losses would prevent a man from fulfilling his duties, or when betting is carried to excess. Sweepstakes can be defended on the same grounds. But betting easily becomes an infatuation, and is especially deplorable and to be condemned in the case of the

young, of schoolchildren, and of workmen who require all the money they get to maintain their family.

9. The State has a right to regulate betting by legislation, so as to put sane limits to the practice.

10. A bet that is lost must be paid, though payment will not be enforceJTcgally; but it must have been laid under the conditions set out above.

SECTION 18. Lotteries

1. A lottery is a transaction in which prizes are distributed to some of those who bought lottery tickets, the results being determined by some mechanical procedure, such as revolving the tickets in a drum which ejects the winning tickets.

2. It is a good contract in which money is given for the expectation of winning a prize. A lottery does not offend againstjustice, ifthe chances of all the subscribers are equal, if no fraud is exercised, and if money paid bears some reasonable proportion to the chances of winning. But where the chances are very small indeed, the expectation of winning a great prize induces people to buy tickets, and the expectation is worth the price given.

3. Frequent lotteries are to be condemned, for they induce people to acquire the betting spirit, to spend more money than they can afford, and to become victims to cupidity and avarice.

4. State lotteries need not be condemned if not too frequent. They are a reasonable way of extracting money from the citizens in lieu of taxing them.

SECTION 19. Futures, Options and Differences

1. A future, as the object ofa contract, is some commodity which does not exist, but which will have to be delivered (at least imaginatively) at some future time, as the crops of next year's harvest. An option is a privilege granted to a purchaser of concluding a bargain at some future time and at a fixed price. Differences are the differences between the prices which were the object of agreement and the actual prices which rule when delivery had to take place. Such differences can be matter of a contract, and they are the object of speculation and gambling on the Stock Exchange.

2. In these transactions, brokers bet on differences. They are a species of wagering. Provided that the conditions ofjust wagering are fulfilled, they are morally correct. But dealings in futures is another matter. To fix the prices beforehand for some future commodity may or may not benefit the producers and the consumers. The transaction prevents the free play of supply and demand, lends itself to cornering, too often keeps prices high in the case of the necessities of life. The actual

contract does not appear to be contrary to justice, for merchant, speculator, and producer, willingly take the risks. But we believe that speculation in futures on a large scale is contrary to charity, for it prevents prices finding their natural level, and so precludes the poor from buying cheap when stocks are plentiful.

CHAPTER XI

THE EIGHTH COMMANDMENT

SECTION 1. The Precept

The eighth commandment is: "Thou shalt not bear false witness against thy neighbour." This commandment explicitly forbids lying in giving testimony about another; implicitly it forbids lying, injuring by word or act the good esteem or honour of others, all rash judgment, and the unjust revelation of secrets.

SECTION 2. Lying

1. Lying is contrary to the virtue of truthfulness. The gift of speech is for social intercourse. As we may not employ any member or function of the body for purposes contrary to its natural ends, for that would be to frustrate the divine intentions, so we may not use speech to express what is contrary' to the natural purpose of speech, namely, the manifestation of our convictions. We fail in truthfulness by excess if we are indiscreet; we fail by defect if we lie.

2. The essence of a lie is the contradiction between interior conviction and the external expression by words or conduct. The social effect of a lie is to deceive, but the essential evil in lying is not deceit but the frustration of the purpose of speech. The lie is intrinsically evil and contrary to the law of nature.

3. A lie as such is not a grievous sin, for it is not a serious inordination against nature, nor a grave abuse or misuse of a faculty; it cannot be likened to suicide, murder, contraception, each of which completely subverts the order of nature and tends to the extinction of the race.

4. A lie is injurious if harm to another is done by it; it is said to be profitable, as opposed to the injurious lie, if it benefits the speaker without doing harm to another; it is said to be jocose, if it affords pleasure or provokes merriment without doing harm to others. Only the injurious lie is of its nature grievous, but its gravity depends on the gravity of the harm done.

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SECTION 3, Mental Restriction

1. Mental restriction is the act of the mind which restricts the meaning of a phrase or set of words to one particular sense. When the sense of the words is so restricted that they could not, under any circumstances, mean what they express, a lie is told. This is called strict mental restriction and is nothing else but a lie.

21 There is another kind of mental restriction, when the words employed can have two senses, one of which is intended by the speaker and could be gathered by anyone who was acquainted with all the circumstances; the other sense, not being intended by the speaker, is mistakenly understood by the hearer. This is called broad mental restriction and is certainly not a lie.

3. It is obvious that when a secret must be safeguarded and kept inviolable, and when silence is not possible without revealing the secret, some way of safeguarding the secret may be adopted if it is a legitimate one. All theologians approve of broad mental restriction; some few defend the telling of a lie in self-defence, just as they and all others allow the killing of an unjust aggressor on one's life, provided so much violence is necessary. This second opinion is not defended here, since the other way of safeguarding secrets, namely, by broad mental restriction, is sufficiently adequate. But it must be admitted that, in practice, it is sometimes very difficult to find a form of words which can be regarded as broad mental restriction. It must be left to the speaker himself to form a prudent judgment as to the form of words he can employ.

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4. For the legitimate use of broad mental restriction two conditions are to be fulfilled, namely, there must be a sufficiently good reason for safeguarding one's secret; secondly, the misinterpretation or self-deception of the hearer must be justified under the circumstances. Thus when one is legitimately interrogated by a judge or a Superior mental restriction is not permitted.

5. Since broad mental restriction is permissible on occasions, it is permitted to confirm it by oath, for God is then called to witness to the truth.

SECTION 4. Detraction and Calumny

1. Detraction is the unjust revelation of what is true of another, the knowledge of which diminishes his good repute in the mind of another. Calumny is a statement about another which is a deliberate falsehood.

2. Everyone has a right to the good esteem which he enjoys in the minds of others until it has been forfeited. The right can be possessed not only by an individual, but also by a community, society, State, city, and any body of men.

3. Detraction is a serious sin if the consequent defamation is serious. It is more serious than theft, because a good name is better than riches. Indirect detraction, that is, detraction not intended but foreseen, if voluntary in its cause, is as unjust as direct detraction.

4. The gravity of the harm done by detraction is to be judged by the character, position, office, of both the detractor and the detracted, and by the circumstances of the hearers. A man may have forfeited his good name in one matter without having forfeited it in others.

5. Revelation of the fault of another may be necessary or very useful, as in the defence of oneself or of others; it is not then unjust. It is also justified if it is very useful to reveal another's fault to Superiors, parents, employers, masters, and in the case of the appointment of others to offices, or dignities, or when speaking to a wise friend for the sake of his advice, or even for the relief of one's mental anxiety.

6. It is not unjust detraction to speak of what has become juridically notorious, for it is conducive to public security that criminals should be known for what they are. But the public crime of a person in a small community may not be revealed if the disgrace of it would reflect on the community itself, if the latter retains its right to its good name.

7. To reveal the hidden fault of another which one has come to know by using unjust means, as by unjustly opening and reading letters, is a sin against justice.

8. To listen to detraction is not the same as merely to overhear it. To take pleasure in listening to detraction that is serious from a motive of hatred is a sin against charity, but curiosity or levity excuses the hearer from grave sin.

9. It is not seriously sinful to defame oneself, but to do so without a just reason is a venial sin. However, if it is necessary to preserve one's good name for the sake of one's office, dignity, position, relatively to others, it must be preserved, for self-defamation could then be a serious sin.

10. There is no immediate obligation to repair another's loss of esteem caused by us, if that other has defamed us first and will not make reparation; not to repair it is a species of self-defence. But it would be highly virtuous to do so.

11. The obligations of the detractor are to restore the good name of the detracted. He can do so by revoking the detraction, or by expressing regret for his act. He may make reparation indirectly by praising the detracted for some good quality which he possesses.

12. Since calumny is a lie, reparation consists in revoking the lie, else the harm to the calumniated persists and injustice is done continuously. Not to repair calumny is similar to keeping what belongs to another.

SECTION 5. Ra^li Judgment

1. Λ judgment is a definite mental assent. Λ rash judgment is an assent given on grounds that are known to be untrue, or inadequate.

2. A rash judgment is a sin against justice, for it is unjust to expel without reason from our mind the good esteem of another. Rash judgment is a serious sin if the matter is serious, but three conditions are necessary that it should be serious, namely, grave injustice done, an assent that is undoubting, and is consciously groundless.

3. It is permissible at times to suspend one's judgment of another, for a prudent man must guard himself against the possible or probable ill-will of another.

SECTION 6. Contumely

1. Contumely is the unjust violation of the honour due to another. We are bound to show honour to others. "Render to all men their dues. Honour to whom honour is due" (Rom. xiii. 7).

2. Contumely is a sin against justice and charity; against justice, for everyone has a certain excellence and has a right that it should not be externally contemned; against charity, "Loving one another with the charity of brotherhood, with honour preventing one another" (Rom. xii. 10). To withhold honour when it should be given is also sinful. Contumely is a grave sin if the dishonour is grave. Since this sin is against justice, reparation must be made.

SECTION 7. Violation of Secrets

In this context a secret is a hidden fact which cannot be revealed without injustice or uncharity or both.

i. A natural secret is one concerning a personal fact, such as the illegitimacy of another. A promised secret is one which may not be disclosed by virtue of a promise made not to disclose it. An entrusted secret is one which may not be disclosed by virtue of an agreement, express or implied, made before it is communicated, not to disclose it. Among such secrets, the professional secret is the chief. Such a secret is possible only when one party holds relatively to the other some office, which of its nature invites secret and privileged communications. The confessional secret is a professional one with the added obligation of religion.

3. A natural secret must be kept secret under grave obligation if the matter be grave, relatively or absolutely. If the revelation of it would harm another, to reveal it without sufficient reason would be a sin against justice; if its revelation would only displease another, a sin against charity not against justice would be committed by revealing

it without just cause. There can be a sufficient reason for revealing a natural secret, if silence would do harm to a third innocent person, or to the common good. When the matter of the secret has become known, secrecy is not then obligatory.

4. A promised secret that is not also a natural one binds in virtue of the promise, and this imposes a light obligation in virtue of fidelity, though the promissor could bind himself by justice if he wished. The obligation of secrecy would then be grave if the matter was important, or if its violation would give grave reasonable offence. When a secret, even of great moment, is held under promise to keep it at the risk of life, so serious an obligation is probably null from the beginning, though that would not be so in the case of serious State or war secrets. The sacramental secret binds even at the risk or certainty of death. An obligation to secrecy which cannot be fulfilled without sin does not bind.

5. An entrusted secret binds under grave sin if the matter is grave. The obligation is one of justice, and if the secret is professional, the common good demands secrecy. But it is permissible to disclose such secrets in the following cases:

(a) When consent to do so can be reasonably presumed, as when secrecy' would do harm to him who entrusted the secret.

(i) When revelation is necessary to avert serious harm from a third innocent party, the harm ensuing from the person who entrusted the secret, because an innocent person has the right to be defended against unjust aggression. Thus if a doctor knows professionally that A, a syphilitic, intends to marry, if A cannot be persuaded to put off the marriage, or to tell the prospective bride, the doctor would not offend against justice if he revealed the secret to that party. But if the doctor feared that he would lose his clients, charity to himself would justify his silence.

(c) When revelation is necessary to avert grave danger to the common good.

(rf) When revelation is necessary to avert grave danger from him to whom the secret has been entrusted, but the common good of the State may not be imperilled to avert merely personal danger.

(c) It is permitted to reveal a secret of this kind to one prudent counsellor who will keep the secret, unless the person who entrusted the secret objected to that procedure.

SECTION 8. The Opening of Letters

i. Apart from duty to others and official position, it is sinful to open and read another's letters, or letters that have been lost or hidden. A husband has the right to open his wife's letters if he reasonably suspects

her of having incurred debts for which he had not pledged his credit, or of undesirable friendships. A wife rnay open her husband's letters only in self-defence in a serious matter.

2. Another's letters may be opened when there is a duty to do so, or when permission can be reasonably presumed. Letters of subjects in religious Institutes may be opened and read by the Superior, if the rules, known and freely accepted by the subject, allow this to be done, but not if the letters are directed to higher Superiors, or contain confessional secrets, or matters of conscience. In time of war the State has the right to censor all letters, except those containing confessional secrets, as an act of self-defence, but it grants privilege to certain classes of letters.

3. When a letter has been torn up into small fragments and thrown away in an open place where they could be easily gathered up, it would be an offence against charity, but probably not against justice, to piece the fragments together, and read the letters. To read postcards which go openly through the post is no offence, as the writer must be supposed to condone the act.

SECTION 9. Historical and Biographical Writings

The dead retain the right to their good name, but since a historian nowadays has easy access to sources, he is allowed to put secrets of the past into their true perspective, if by doing so he can forestall the abuses of mingling an ounce of truth with a ton of generalisations. Injustice is not done by disclosing past facts hitherto unknown in defence of the innocent, or for the public good. But care must be taken not to offend the just susceptibilities of the living, unless the clear interests of historical truth of great moment render this excusable, as they may. But it is unjust to the dead to reveal their evil acts and to be silent as to their change of heart for the better, if such was the case. The evil acts of the living may be revealed, provided that slander be avoided, if necessary in defence of the living who are themselves innocent.

TREATISE VIII

CERTAIN PRECEPTS OF THE CHURCH

CHAPTER I

THE PRECEPTS IN GENERAL

The catechism of Christian Doctrine enumerates six precepts of the Church; they refer to hearing Mass on Sundays and holy days of obligation, fasting and abstinence, annual confession and paschal Holy Communion, the support of pastors, prohibition of marriage within certain degrees of kindred, and its solemnization during forbidden times.

2. The precept of supporting pastors is set out briefly in the canons: "In regard to the payment of tithes and first fruits, particular statutes and praiseworthy customs are to be observed in each place" (c. 1502). The Church rightly exacts from the faithful that which is necessary for divine worship, the honourable maintenance of clerics and ministers, and other purposes peculiar to it (c. 1496). This precept endorses the divine and natural obligation: '"The Lord has ordained that they who preach the gospel should live by the gospel" (1 Cor. ix. 14). The obligation is one of Natural law, for the Church is a divinely instituted society, founded by Christ our Lord for the benefit of mankind and therefore entitled to support by its subjects.

3. The obligation is of its nature a serious one, but its fulfilment depends normally on the needs of the pastor and the resources of the faithful. Unfortunately the obligation sits very lightly on vast numbers of Catholics who, nevertheless, in their serious illness expect the pastor to be ready at their call, to devote much time and labour to attending to them, though they may have never paid any regard to their part of the contract. The duty of the pastor is, indeed, a duty of charity as well as one of justice, but in order to be able to fulfil his duties he must be maintained. The faithful may usefully be reminded of this duty of theirs, and even schoolchildren should be taught to contribute their little share, however meagre and infrequent it is, to the support of their priests. Collections during the children's Mass on Sundays are a laudable reminder of their duty.

CHAPTER II

FASTING AND ABSTINENCE

Note.

What follows in the main text after the decree of the Sacred Congregation of the Council (Jan. 28, 1949) must be modified in accordance with the terms of the said decree. The decree was as follows, and came into force from the first day of Lent 1949:

1. The law of abstinence is to be observed on all Fridays.
2. The law of both fasting and abstinence is to be observed on Ash Wednesday, Good Friday, the vigils of the Assumption of Our Lady and Christmas Day.
3. On days of fasting and abstinence, eggs and milk foods may be taken even at breakfast and evening collation.

SECTION 1. The Law of Fasting

1. The law of fasting forbids the taking of more than one full meal on a fast day. Some additional food may be taken morning and evening, the amount of which is determined by approved custom. It is permitted to interchange the times of dinner and the evening meal (c. 1251), and according to a very commonly received opinion, those of breakfast and the evening meal.

2. Liquids that are foodstuffs and nutritious, as soup, whole milk, are forbidden, but not those which merely quench the thirst, as wine, beer, cocoa, coffee, though some of these may be slightly nutritious. Sweets taken in small quantities to aid digestion, or as antiseptics for throat, mouth, or stomach, are permitted. When liquid is taken outside the times of meals, a very little food may also be taken, but not more than twice a day.

3. The one full meal allowed on a fast day may not, according to common opinion, be protracted beyond two hours, unless light dessert, or light foods, are taken at the end of the substantial meal. The one full meal may not be so interrupted as to develop into two meals, but if interruption was unavoidable, the meal may be continued. Readers and servers at table may take some food before reading or serving. If one has risen from table, it is permitted to return to partake of dessert.

4. A Papal induit granted to England and Wales sanctions the taking at breakfast of not more than three ounces of bread with a little butter. A little milk may be taken with tea, coffee, cocoa, or chocolate.

5. The evening meal may consist of about eight ounces of solid food not flesh meat. When a fast day is not also a day of abstinence, fasters are allowed meat at the chief meal only; non-fasters are not thus restricted (P.C.C.J., Oct 29, 1919; S.C.C., Oct. 17, 1923, private). A little more than eight ounces may be taken in colder regions and also by those who need a little more, up to ten ounces in all and if by taking this extra amount they will be able to fast. On Christmas Eve, additional light foods may be taken up to double the ordinary amount at the evening meal.

6. The quality of the food at the evening meal is determined by approved custom. In this country, butter, cheese, eggs, fish, may be taken in reasonably small quantities.

7. The chief meal may be taken in the evening or at any time after midday. To take it before midday would require a reasonable though not a grave excuse.

SECTION 2. The Days of Fasting

i. The days of fasting prescribed by general law are the days of Lent, except Sundays, to noon on Holy Saturday; the vigils of Pentecost, the Assumption of Our Lady, All Saints, and Christmas, except when in the three last cases the feast falls on a Monday; Wednesday, Friday, and Saturday in the four Ember weeks. The law of fasting is dispensed for all Sundays and also for all holy days of obligation if these latter fall outside Lent (c.1252, §4). The vigils as fast days are not anticipated.

SECTION 3. The Subject of the Law

All the faithful are obliged to fast from their twenty-first year of age to their fifty-ninth year completed, unless exempted or dispensed; the completion of the ages takes place at 12.0 a.m. on the day after the twenty-first and fifty-ninth birthdays respectively.

SECTION 4. Dispensation from the Law

1. The Pope can dispense from the general law of fasting.

2. Local Ordinaries can dispense their subjects individually and by families, even if their subjects are outside their dioceses, and also strangers within the diocese. They can also dispense all in the diocese or in any part of it on the occasion of some great assemblage of the faithful, or for reason of public health. They can dispense the inhabitants of a city when there is to be a concourse of the people there at some particular parish church (P.C.G.J., March 12, 1929).

3. The parish priest can dispense his subjects individually or by

families, even if they are outside the parish, and also strangers within the parish.

4. Superiors, even local, of a clerical exempt Order can dispense individually their professed subjects, novices, and all those who live in the religious house day and night for purposes of health, service, education, hospitality. This power being similar to that of parish priests can be exercised in favour of small sections of the community.

5. An ordinary confessor with diocesan faculties can dispense his penitents provided that his delegated faculties cover such cases.

SECTION 5. Violation of the Law of Fasting

1. The law of fasting is violated when one who is obliged to fast takes a second full meal on a fast day without dispensation or exemption, or more than is allowed at the other meals. When the law has been violated completely it cannot be observed on that day. But partial violations are possible, i.e. small quantities of food beyond what is permitted are venial sins, and they can coalesce and constitute a grave violation of the law.

2. Four ounces of solid food beyond the amounts permitted are probably required to constitute a grave violation of the law, but if so much had been taken, the fact does not exempt the person from continuing to observe the law. If, inadvertently, one obliged to fast had eaten more than what was permitted at breakfast, probably the usual amount of food may be taken at supper on that day.

SECTION 6. Causes Which Excuse from Observance of the Law

1. The normal manual worker, transport workers, and all engaged in hard manual work are excused. If they need to recuperate their strength on a fast day on which no work is done, they are for that reason excused from the law.

2. Those are excused who are engaged in continuous works of piety or charity, such as preachers in Lent who preach almost every day, lecturers in the higher studies who lecture daily for an hour unless the lectures require no serious preparation, schoolteachers who teach at least four hours in the day, those who serve the sick, whether freely or from duty, soldiers and sailors and everyone in the services.

3. Servants, shopkeepers, messengers, waiters, porters, and all engaged in work that entails many hours a day standing, as in shops, are excused since their work is very arduous.

4. Impossibility, whether physical or moral, excuses, as in the case of the sick, the convalescent, the weak, mothers who are pregnant, or giving the breast. The poor are excused if they cannot afford to buy

fasting fare, for their vitality is gradually sapped by insufficient food to the great detriment of their offspring. Those also are excused who, by fasting, would suffer some considerable harm of body or mind, or think they are likely to do so.

5. A wife is excused if, by fasting, she would afford even an unreasonable husband cause for domestic strife.

6. A journey on foot, or vigorous exercise, for three hours continuously excuses. If a person is weak and the roads bad, or the weather very inclement, the relative inconvenience must be considered.

7. To undertake work that is incompatible with fasting may or may not excuse from the law; it depends on the motive and the necessity, or even the value of the work. Thus the labour of serving the sick may be freely undertaken even if it renders fasting impossible. To undertake work that is useful or profitable, where it cannot be deferred w'ithout loss of valuable time, or profit more than ordinary, excuses from the law. The pleasure of physical exercise which is not really necessary will occasionally excuse from the law.

SECTION 7. The Law of Abstinence

1. The law of abstinence forbids the eating of flesh meat or meat soup on certain day's; it does not forbid the use of condiments from animal fats. Eggs and milk foods are allowed and also jellies made from animal bones. Lard, the rendered fat of hog, and dripping, the melted fat dropped from roasted meat, may be taken as condiments. Suet is flesh meat. Suet pudding made of flour and shredded suet is not forbidden if the suet is merely a condiment, that is, not a large part of the whole. Mince pies containing chopped meat are not abstinence fare.

2. In this context, the term animal is taken to describe the animal that is born, lives, and matures on land. In the case of amphibians, their similarity to land animals decides their category; in a case of doubt, the law does not bind. Consequently it is hard to define what exactly is an animal, but the common estimate of people is a safe standard to take. Water fowl are certainly animals, but frogs, snails, tortoises, oysters, lobsters, otters, beavers, crabs, are not regarded as animals within the meaning of the law.

3. All the faithful are bound to observe the law of abstinence from the completion of the seventh year of age, that is, from the beginning of the day after the seventh birthday, unless exempted or dispensed.

SECTION 8. The Days of Abstinence in England and Wales

I. The days of abstinence in England and Wales are all Fridays except holy days of obligation outside Lent, and December 26th; the

Wednesdays in Lent, Ember Wednesdays, Ember Saturday in Lent, the vigils of Pentecost, the Assumption of Our Lady, all Saints, and Christmas Day, unless the three last vigils fall on Sunday. When a holy day of obligation is suppressed, if it fall on an abstinence day, the law of abstinence is not dispensed (P.C.C.J., Feb. 17, 1918). The law does not bind if a vigil is anticipated.

2. Strangers coming into these countries from places where the Saturdays in Lent are days of abstinence must abstain on either both the Wednesdays and Fridays in Lent, or on both the Fridays and Saturdays, but all scandal must be precluded if the latter alternative is adopted (S.C.C., Feb. 9, 1924).

SECTION 9. Dispensation from the Law

Those who can dispense from the law of fasting can also dispense from that of abstinence. When dispensation is granted to eat meat on the fast days of Lent, those who are bound to fast may eat meat at the chief meal only; others are not restricted.

SECTION 10. Violation of the Law

It is a grave sin to violate the law of abstinence in a grave way. Authors generally think that two ounces of flesh meat, but not less, constitute grave matter. In the matter of meat soup, four ounces of soup constitute grave matter. The law of abstinence can be violated, slightly or seriously, more than once on a given day of abstinence. In this respect it is unlike the law of fasting.

SECTION 11. Persons Excused from the Observance of the Law

The following are excused: children under the age of seven years, those who have not come to the use of reason, those who cannot, without grave inconvenience, get abstinence fare, those who cannot abstain without considerable difficulty, whether of health, time, expense, the sick, the convalescent, the very poor, those who require meat foods for the sake of health or work, those engaged in hard manual 'work, wives and children who, by abstaining, would incur the serious anger of the father of the family, vagrants who live on what they can beg, members of the forces during service, that is, so long as they are members of the forces.

Practical Applications

i. A Catholic invited to dine by non-Catholics would greatly edify his hosts by asking for abstinence lare on a day of abstinence, but if the

request would cause grave inconvenience to his hosts, he would be exempt from the law, but he should explain the reason so as to preclude scandal.

2. If a or family has meat supplies remaining over from the previous day and cannot well afford to buy abstinence fare, it would be excused from the law. But the case should be explained to the children lest they be scandalized, and become indifferent to the laws of the Church.

3. Wife, children and servants are not excused from the law merely because the master is dispensed or excused. But doubtless it might be difficult to provide two kinds of meal for the household.

4. Since the law of abstinence is more easily observed than that of fasting, the faithful should be exhorted to abstain if they cannot fast, and to observe the law as an act of penance.

CHAPTER III

THE CENSORSHIP OF BOOKS
(cc. 1384-1394)

SECTION 1. Reasons for Censorship

The censorship of books is the previous examination of them with a view to their suitability for publication by a Catholic. There are certain classes of books which, in the mind of the Church, must be examined before publication, lest anything contrary to faith or good moral conduct might be contained in them, to the possible harm of the members of the Church, that is, to the faithful, whether educated or not, especially to the uninstructed.

SECTION 2. The Present Law

The following books must be subjected to previous censorship before publication. The law applies equally to clerical and lay authors.

ks of Sacred Scripture and annotations and commentaries on them, whether in marginal notes or footnotes, and even if the notes are published separately from the text, and texts, versions, translations, exegeses, treatises.

2. Books dealing with Sacred Scripture, sacred theology, church history, Canon law, natural theology, ethics, religious or moral sciences. Social and political theories are included under the caption of moral science.

3. Books and booklets of prayers, books of devotions, religious doctrine, catechism, morals, ascetics, mysticism and the like, even though they appear conducive to fostering piety; in general, all writings containing anything specially dealing with religion or morals.

4. Pious representations howsoever reproduced, with or without prayers added.

SECTION 3. Permission for Publication

Permission to publish the aforesaid books or representations can be granted by the local Ordinary of the author of them, or by the local Ordinary of the place of printing or of publication, but if one of these refuses permission, application to another Ordinary may not be made without mentioning the refusal. In addition to this permission, members of a religious Institute need the previous permission of their higher Superior. The local Ordinary of a Religious is the Ordinary of the place in which the house of the Religious is situated. A more extensive meaning of Ordinary is probable, namely, the Ordinary of the place of publication.

SECTION 4. Special Rules Affecting both Clerics and Religious

1. Without the consent of their Ordinaries in the case of secular clerics, and of both the local Ordinary and higher Superior in the case of Religious, these two classes are also forbidden to publish books which treat of secular matters, or to contribute written matter to newspapers, magazines, or periodicals, or to undertake the direction of them as editor, manager, adviser, and so forth.

2. Without a just reason approved by the Ordinary not even lay people may write anything for newspapers, magazines, or periodicals, that are accustomed to attack the Catholic religion or good morals.

SECTION 5. Permission for Certain Classes of Books

1. Any writing that deals with actually pending causes of beatification or canonization of the Servants of God requires the permission of the Congregation of Sacred Rites before publication.

2. No books, summaries, small booklets or leaflets that set forth the grants of indulgences may be published without the permission of the local Ordinary (or probably the Ordinary of the place of publication).

3. Express permission of the Apostolic See is required for the publication in any language of an authentic collection of prayers and pious works which the Apostolic See has enriched with indulgences; the same permission is required for publication of catalogues of Apostolic

indulgences or a summary of them. The canons point out that this permission is necessary even if such a summary had already been made but had not been approved, or was completed for the first time from various grants.

4. Permission is also necessary for the renewed publication of collections of the decrees of Roman Congregations, such as those bearing on sacred rites. The permission must be sought from the Prefects of the several Congregations and all prescriptions must be exactly fulfilled.

5. When liturgical books, wholly or in part, or litanies approved by the Holy See are published, the Ordinary of the places of printing or publication must first guarantee their conformity with the officially approved texts.

6. Versions of Sacred Scripture in the vernacular may not be printed without approval of the Holy See, or unless they are published under the supervision of the Bishop; to such versions, notes must be added taken from the writings of the Fathers of the Church and other learned Catholic authors. The Sunday Epistles and Gospels are usually issued without notes.

7. It is to be observed that translations and new editions of the Scripture text require fresh approval in addition to the original one, but reprints of the text derived from periodical publications and separately issued are not regarded as new editions and do not require a fresh approval. The version of the Epistles and Gospels read to the faithful in church must be a version made from the text approved by the Church for the sacred liturgy (Bibl. Comm., April 30, 1934).

SECTION 6. Diocesan Censors

I. Every episcopal curia must have official censors. These must be diligent in the performance of their duties, setting aside all personal bias, having before their eyes the dogmas of the Church, and the commonly received Catholic doctrine embodied in the decrees of General Councils, the Constitutions and decrees of the Apostolic See, and the co ami on teaching of approved divines. The censors must be truly competent in the matters submitted to their examination (S.O., March 29, 1941). They must be selected from both the secular and the regular clergy, and recommended by their years, learning and prudence.

2. The censor must give his opinion in writing; if it is favourable, the Ordinary is to grant permission for publication of the work censored, where he is competent to do so. The censor's approval *(nil obstat)* and name must be printed together with the Ordinary's permission *(imprimatur)* at the beginning or the end of the work, and the date of permission. The censor s name may be omitted for some good

reason. The author of the censored book may not be apprised of the censor's name before a favourable judgment has been given to the work.

3. Permission to publish must be given in writing; if it is refused, the reasons for the refusal must be given to the author if he asks, unless there is a serious reason, as there may be, for not doing so.

4. Approval by censors and permission to publish given by the Ordinary are not a guarantee that the book will not subsequently be condemned.

CHAPTER IV

PROHIBITION OF BOOKS
(cc. 1395-1405)

SECTION 1. The Author of the Prohibition

I. The church has the right and the duty to forbid the printing, publishing, keeping, reading, lending, of any class of books and of any kind of literature which may be dangerous to the faith or good moral conduct, for the Church is the guardian of faith and morality.

2. The persons who can exercise this power are the Supreme Pontiff for the universal Church, particular Councils, Roman congregations, especially the Holy Office, and local Ordinaries for those subject to them.

3. The Abbot of an independent monastery and the major Superiors of clerical religious Institutes, with the advice and counsel of their respective Chapters or consultons, can issue prohibitions to their subjects for just reasons against reading certain books or literature, and the same power can be exercised in urgent cases by other higher Superiors with the counsel of their consultons, but they must nepont their action as soon as possible to the Superior General. Superioresses in Institutes of women, by virtue of dominative power, can do likewise for their subjects.

4. Prohibitions by particular Councils and Ordinaries are obligatory only on their subjects but not outside their territory unless, in the latter case, the precept is personal. Prohibition by the Apostolic See binds all Catholics everywhere and extends to every translation of forbidden

SECTION 2. Denunciation of Books

I. The obligation to denounce bad or dangerous books is a matter of Natural, divine positive, and ecclesiastical laws. The Church

reminds all the faithful and especially clerics, and those holding ecclesiastical dignities, and the learned, to denounce books which they judge to be dangerous. This duty affects especially Apostolic Legates, local Ordinaries and Rectors of Catholic Universities, for all these have a special duty to safeguard true doctrine.

2. In making the denunciation, the reasons for adverse judgment should, as far as possible, be given. The names of those who denounce are kept secret.

3. It is also the duty of local Ordinaries, personally or by proxy, to be acquainted with books published or on sale within their territories.

4. If a book requires a close examination, or if it is thought that the judgment of the Superior authority on it is necessary to produce a more salutary effect than would be produced by the judgment of the Ordinary, the judgment of the Ordinary should be referred to the Holy Office.

SECTION 3. Effects of Prohibition

1. The first effect of the prohibition of a given book is that it may not be published, read, retained, sold, translated, or communicated to others in any way without due permission. The publisher is he who prepares the book for public sale; the printer and writer co-operate in the publication of the book. A book that is forbidden cannot be republished without correction and permission.

2. To hear another reading a book is not to read it, though by virtue of Natural law this may be sinful. A book is not read if it is merely glanced through or read without understanding. A blind person can be said to read a braille book.

3. It is difficult to determine what amount of the reading of a forbidden book is forbidden under grave sin. Much depends on the nature of the book. It may be safely stated that the reading of six pages of a book dangerous to faith or morals is serious, but less than that if the book is very dangerous or very obscene. When a book is not professedly bad but has a dangerous tendency, the reading of ten to fifteen pages would be serious. Apart from positive law and a nice discrimination, a reader who takes harm from reading even a small amount is bound by Natural law to refrain from reading even that amount, though he has obtained permission to read the book (S.O., April 17, 1943).

SECTION 4. Particular Forbidden Books

The following categories of books are forbidden:

I. Editions published by non-Catholics of the original text, or of the ancient Catholic versions of Sacred Scripture, as well as those of the Oriental Church, and versions of Sacred Scripture in any language

made or published by non-Catholics. In all such works, there is at least the danger of mistranslations, misrepresentations, or positive and deliberate error.

2. Books by any writer which defend heresy or schism, or attempt in any way to undermine the foundations of religion, by reasoning, insinuation, ridicule, etc. The foundations of religion are the existence of God, the fact or possibility of divine revelation, the spirituality and immortality of the soul, the fact or possibility of miracles, free will, the motives of credibility.

3. Books which, of set purpose, attack religion, natural or revealed, or good morals.

4. All books of non-Catholics who professedly treat of religion, unless it is obvious that such books contain nothing contrary to the Catholic faith. Religion comprises many aspects, as, v.g. the ethnical, the comparative, the historical.

5. Books of Sacred Scripture, and annotations or commentaries on them, published without previous censorship; versions of Sacred Scripture in any modern language printed without the approbation of the Holy See or the permission of the Bishop, and without the prescribed notes. Books not duly approved dealing with Sacred Scripture, sacred theology, ecclesiastical history, Canon law, natural theology, ethics or other religious or moral sciences; books and booklets of prayers and those which treat of devotions, doctrine, religious science, morals, ascetics, mysticism and the like. Books and booklets not duly approved which describe new apparitions, revelations, visions, prophecies, miracles, and those which introduce new devotions, even on the pretext of being only private, if published contrary to the laws of the Canons.

6. Books which attack or deride any Catholic dogma, or defend errors condemned by the Holy See (a term which includes the Sacred Roman Congregations and the Biblical Commission), or which disparage divine worship, or attempt to subvert ecclesiastical discipline, or of set purpose defame the ecclesiastical hierarchy, the clerical, or the religious states.

7. Books which teach or commend any kind of superstition, fortune-telling, divination, magic, necromancy and the like.

8. Books which defend the lawfulness of duelling, suicide, divorce, or proclaim that Masonic or such like associations are useful, and not rather harmful to the Church and civil society. These books must professedly, and not by mere implication or incidentally, defend the aforesaid.

9. Books which professedly describe, treat of, or teach matters that are lewd or obscene, such as the description or defence of methods of birth control (cf. Instruction of the Holy Office, May 3, 1927, which deals with sensual and sensual-mystic literature).

10. Editions of the liturgical books approved by the /Xpostolic See, if any alteration is made in them which does not agree with the authentic editions approved by the Holy See.

11. Books which publish apocryphal indulgences, or indulgences which have been proscribed or revoked by the Holy See.

12. Representations alien to the spirit or the decrees of the Church, however they may be reproduced, printed, carved, or engraved, portraying our Lord, our Blessed Lady, the Angels, the Saints, or other servants of God.

SECTION 5. Exemption and Dispensation

1. All those who are engaged in any way in theological or biblical studies are allowed to use editions of the original text of Scripture, or of the ancient Catholic versions, or translations of Scripture into the vernacular, published by non-Catholics, provided that the editions are complete and exact, and do not attack Catholic dogma in their introductions or notes. This exemption is extensive and may be availed of by every priest who continues the study of theology and Sacred Scripture, even intermittently.

2. Cardinals, Bishops, whether residential or titular, and other Ordinaries, are exempt from the positive law regarding books, provided that they take necessary precautions, namely, of avoiding reading that is or may be for them likely to be dangerous, for this is an obligation of Natural law'.

3. Ordinaries may, in urgent cases only, grant permission to their subjects to read a specific book that is forbidden by general law or Apostolic decree. But if the Ordinary has general permission from the Holy See to allow his subjects to retain and read such forbidden books, he may not give permission except with discretion and for a reasonable cause.

4. Those who have Apostolic permission to retain and read forbidden books may not on that account read and retain books forbidden by their Ordinary, unless the Apostolic permission is general. Furthermore, those who have such dispensation are obliged to see that such forbidden books do not get into the hands of others.

SECTION 6. I Booksellers

Booksellers are forbidden to sell, stock, lend, books which of set purpose treat of obscene matters. As to other forbidden books, they may not keep them for sale unless w'ith due permission of the Apostolic See, nor may they then sell a forbidden book to a customer, unless it can be prudently supposed that he asks for the book legitimately.

SECTION 7. General Warning

Though permission may have been obtained for reading a forbidden book, this does not exempt the person in question from the obligation imposed by Natural law against reading books which constitute for that person proximate spiritual harm. Local Ordinaries and others who have the care of souls must opportunely warn the faithful of the danger and harm of reading bad books, especially such as are forbidden.

SECTION 8. Ecclesiastical Penalties (c. 2318)

1. Excommunication specially reserved to the Apostolic See is incurred *ipso facto* by publishers of the books of apostates, heretics, or schismatics, who defend apostasy, heresy or schism.

2. The same penalty is incurred by those who defend, or without due permission deliberately read or retain the aforesaid books, or any others specifically forbidden by Apostolic letter.

3. Authors or editors who publish without due permission books of Sacred Scripture, or notes or commentaries on them, without due permission, incur *ipso facto* excommunication not reserved.

Notes.

1. When a book is forbidden under censure, the term book must be understood literally. A book is regarded as such if it contains about 160 pages octavo or its equivalent. It must also have a certain unity of treatment, and not deal merely incidentally with forbidden matter.

2. Single articles in an encyclopædia, if sufficiently lengthy to be equivalent to a book, are included.

3. Periodicals taken in single numbers are not books; they become books if bound together or collected as a series, and have a definite unity of treatment.

4. Manuscripts, typescript, lithographs, though multiplied, are not books, unless published for sale as complete entities.

5. The term *Opera omnia* (all the works) of an author in a prohibition refers only to the books of that author which treat professedly of religion, but other books of the same author may be forbidden on general or particular grounds. Books of the same author which are published after the condemnation are not included, but they may be, at least, suspect.

TREATISE IX
THE CLERICAL STATE

CHAPTER I

CLERICS IN GENERAL
(cc. 108-110)

i. Clerics are those who are legitimately aggregated to the ecclesiastical hierarchy, and set apart by the Church for the work of the divine ministry. The mark of initiation into the clerical state is the first tonsure. Clerics form a hierarchy in which jurisdiction and authority are exercised in discharge of duties. This hierarchy is twofold, namely, that of Orders, and that ofjurisdiction; in each there are degrees, some of divine origin, others of ecclesiastical origin.

2. By divine institution, the hierarchy of Orders consists of Bishops, priests and other sacred ministers. The hierarchy of jurisdiction consists of the supreme pontificate and the subordinate episcopate. In virtue of ecclesiastical institution other grades exist, as Abbots and Prelates of independent jurisdiction, Superiors of clerical Institutes, Cardinals, Patriarchs, Primates, Metropolitans.

3. Orders are major or minor. Major Orders are the priesthood diaconate and subdiaconate. The other Orders are minor, namely those of acolyte, exorcist, reader, doorkeeper.

4. Jurisdiction is the public power of ruling subjects. It is ordinary when annexed by law to office; it is delegated, when granted as such to an individual by law, or by one who has ordinary jurisdiction. Jurisdiction delegated by the Holy See, unless exclusively personal, and jurisdiction to deal with all cases or those of a particular kind, can be subdelegated unless this is specifically forbidden, but the subdelegated faculty cannot again be subdelegated unless that concession is expressly granted (c. 199, §5).

5. Jurisdiction is exercised in the external forum when it is used for the common good in the Church as a corporate society, by law, judgments and sanctions. It is exercised in the internal forum chiefly when it affects conscience, and regards the good of the individual; this jurisdiction may be sacramental when, that is, it is exercised in the tribunal of Penance, or extra-sacramental, when exercised outside that tribunal.

6. Every cleric must be affiliated to some diocese or some religious Institute; unattached clerics *(vagi)* are not tolerated (c. 111). The bond of affiliation to a diocese is created by incardination; that of a person to a religious Institute by the vows.

CHAPTER II

VOCATION TO THE CLERICAL STATE

I. Since the number of priests needed for carrying on the work of the divine ministry is very great, God in His Providence offers vocations to the priestly state to many. A confessor should know the signs of such a vocation, lest he advise those to become priests who are not fit to engage in priestly work to the great harm both of themselves and the faithful, and on the other hand, lest he deprive the Church of good priests by exaggerating the conditions that are sufficient for undertaking the priestly life.

2. It cannot be maintained that a special divine inspiration to the priesthood must always be felt, for in the majority of cases such an inspiration was, we believe, never felt.

3. One who has a right intention and is fit to undertake the duties of the life, and who knows what those duties are, at least in general, may seek admission into the clerical state.

4. The fitness of a candidate for the secular priesthood must be settled by the Bishop to whom application is made, or by one appointed by him. He will demand a reasonable amount of intellectual outfit and mental power, and a high standard of good moral character. The judgment passed by a Commission of Cardinals appointed by papal authority (July 2, 1912) on the work of Canon Lahitton *(La Vocalion Sacerdotale)* should be borne in mind by every confessor. The Cardinals of the Commission approved of the teaching of Canon Lahitton to the effect that nothing more is required in the aspirant to the priesthood, in order that he may be duly invited by the Bishop, than a right intention together with fitness in those endowments of grace and nature established by such goodness of life and sufficiency of knowledge, as will give ground for hope that the aspirant will be able rightly to fulfil the priestly office and holily to observe its obligations.

5. Since, in the past, some priests have complained that they were unsuited for the priestly life, that they were wrongly admitted to it, and even coerced into the clerical state, and that if they had realized the difficulties of celibacy they would not have applied to a Bishop for admission to the seminary, the Sacred Congregation of the Sacraments (Dec. 27, 1930) laid down minute instructions for the guidance of those who admit aspirants to the diocesan seminaries. The following points are important:

(a) Before tonsure and minor Orders, the candidate must urite

a declaration that he freely and spontaneously requests the tonsure and the Orders. The Superior of the seminary must make diligent inquiries into the fitness and moral character of the candidate, and send die result of his investigation together with his own opinion to the Bishop. The parish priest is also to be instructed by the Bishop to make all suitable investigations into the moral character of the candidate, and the social condition of his parents, and to make particular inquiries to find out if the parents are forcing their son to receive Sacred Orders. Inquiries must also be made into any possible or probable inherited abnormal tendencies in the candidate. If necessary, other persons may be consulted.

(i) Before the reception of the subdiaconate, an additional inquiry must be made. The candidate must sign a declaration and take an oath that he approaches sacred ordination with entire freedom, and that he understands all the obligations of the state. A similar declaration must be made before he receives the other Orders. In particular, the candidate must declare that he clearly understands what the law of celibacy means, that he fully realizes the obligations of the state, and is firmly resolved to observe them entirely. Since he has also to state that he experiences a divine vocation, he may be reassured of this if he has the right intention, and if the Superior judges him to be fit for the life.

CHAPTER III

RIGHTS AND PRIVILEGES OF CLERICS

SECTION 1. The Rights of Clerics

I. Clerics alone can receive the power of Orders and ecclesiastical jurisdiction, benefice and ecclesiastical pensions.

2. Since clerics are in a state of life which entitles them alone to the aforesaid, the person of a cleric is endowed with a certain sacredness, the violation of which is a sacrilege.

3. All the faithful must show external honour and have interior respect for clerics, the greater in proportion to the higher dignity and office of the cleric.

SECTION 2. The Privileges of Clerics

i. Every cleric enjoys the privilege of the canon (canon 15 of the Second Council of Lateran, 1139), by which he is safeguarded by means of censures from external injurv unjustly inflicted on him.

2. Every cleric enjoys exemption from lay jurisdiction, that is, a cleric must be judged by an ecclesiastical court not a civil court, in civil and criminal cases, unless special concessions are legitimately granted for particular places, as is done by Concordats and approved custom.

3. A cleric is exempted from military service, civil obligations and public offices that are incompatible with the clerical state, but the Church is willing to make exceptions for good reasons.

4. If a cleric is forced to satisfy his creditors, he is to be allowed sufficient means for his honourable maintenance, but he must pay his debts as soon as he can.

5. The aforesaid privileges cannot be renounced by a particular cleric; they are lost if a cleric is reduced to the lay state, or is deprived permanently of the right to wear the clerical dress. The privileges are recovered if the penalties are remitted, or if the cleric is re-admitted to the clerical state.

6. Clerics in minor Orders lose their privileges if they freely contract marriage, or put off, without sufficient reason, the clerical dress, or cease to wear the tonsure, or on their own initiative join the fighting forces.

CHAPTER IV

GENERAL OBLIGATIONS OF CLERICS
(cc. 124-136)

SECTION 1. Religious Duties

Clerics are bound to live a holier life, both interior and external, than are lay people, and to give a more excellent example of virtue and upright conduct. That they may be able to do so, local Ordinaries must see to it that clerics subject to them frequently receive the Sacrament of Penance, daily spend some time in mental prayer, visit the Blessed Sacrament, recite the rosary of Oui* Lady, and examine their consciences. Common practice is to spend about half an hour in meditation, and a quarter of an hour in the visit to the Blessed Sacrament. Daily Holy Communion is recommended to all. In addition, all secular priests must make a spiritual retreat at least every third year for a period fixed by their local Ordinary in some pious or religious house appointed by him. No one is exempted from this retreat except in a particular case, for a sufficient reason, and with the express permission of their Ordinary.

SECTION 2. Obedience

1. All clerics, and priests especially, are particularly obliged to show external reverence and obedience to their Ordinary. They must therefore be content to take on any work at his request, such as the care of a poor mission, teaching boys, lecturing in seminaries, acting as accountants for the diocese, and other occupations, even if they seem to be far-removed from their priestly office.

2. Priests must make a special promise at their ordination to obey their Bishop, a promise which creates an obligation not of a vow but of fidelity, and also of religion if the promise is made under oath.

SECTION 3. Clerical Studies

1. The sacred sciences are the professional objects of the study of clerics. This study should be continued through life, for the matter can never be exhausted. The cleric must follow the solid doctrine in these sciences, and what is traditional and commonly received in the Church. Of all the departments of these sciences, Sacred Scripture is necessary for all, dogmatic theology is especially necessary for preachers, moral theology for confessors, Canon law for pastors of souls.

2. That clerical studies may be continued after ordination, the canons prescribe a yearly examination for at least three years immediately after ordination. Bishops may grant exemption from this for a just reason, but in bestowing ecclesiastical offices, they are to give preference, other conditions being equal, to those who have been the more successful in these examinations.

3. Furthermore, conferences on cases of conscience and the sacred liturgy and other subjects, adapted to advance the knowledge and piety of priests, are to be held frequently each year in the episcopal city and the deaneries. If conferences cannot easily be held, as in time of war, written answers to the cases must be sent to the Ordinaries. All who have care of souls, exempt Religious not excepted, and those who have diocesan faculties, are to be present at these conferences, except that Religious who are not parish priests may have cases in their own houses. If a priest is absent from a conference, he must explain the reason and send a written reply to the case to the Ordinary.

SECTION 1. Clerical Celibacy

I. Clerics in major Orders cannot marry validly. A cleric who was forced to receive Sacred Orders under grave fear, and when the fear ceased to be present did not ratify his ordination subsequently, at

least tacitly, by exercising his Orders with the intention of submitting to his clerical obligations, is to be reduced to the lay state, freed from the obligation of celibacy and of reciting the divine office (c. 214).

2. Clerics in minor Orders can marry validly, but if they do so, they cease to be clerics unless their marriage was invalid owing to duress or fear (c. 132).

3. A married man who, in good faith, had received major Orders without Apostolic dispensation is forbidden to exercise them (c. 132).

4. In addition to the obligation of celibacy, a cleric implicitly takes a vow of chastity on receiving major Orders. If internally he declined to take the vow of chastity, he is bound to celibacy by ecclesiastical law. In normal cases, the obligation of celibacy is based on both ecclesiastical law and the vow of chastity, and the vow is constituted a solemn one by the Church. The Church imposes both celibacy and chastity on clerics in major Orders; a sin against chastity in their case is sacrilege (c. 132).

5. The Bishop who is asked to admit candidates to the clerical state must reject those whom he knows, apart from confessional secret, to be unfit, and must deprive unworthy priests of faculties, expel the incorrigible from office, and in the case of those who are not sufficiently advanced in virtue defer their ordination.

6. An aspirant to Sacred Orders who knows that he cannot, because he habitually does not, observe chastity, would sin grievously if he applied for ordination, before complete emendation and a reasonable conviction that improvement would persist with the help of divine grace.

7. An aspirant whose lapses into unchastity have been frequent must be tested until there is a good assurance that he has acquired the habit of chastity. The test must be protracted, for no one who has been habitually unchaste can hope to be suddenly converted. The period of probation will vary in different cases, but a minimum of six months without grave sin is to be exacted; a period of at least a year should be exacted in more serious cases.

8. A youth is to be deterred from clerical life, or dismissed from it, if already undertaken, whose frequent lapses into unchastity are normally certain, owing to natural temperament or acquired habits, or who, during vacations, allows himself to be attracted to, and consort with, members of the opposite sex beyond what is necessary or eminently reasonable.

9. A confessor may be confronted with the following cases:

(a) A boy who has contracted a habit of solitary vice should on no account be allowed to enter a seminary until he has overcome his habit. A period of probation of an entire year is not excessive. If his

sins have been frequently committed with others, he must be deterred altogether from the clerical life.

(5) The seminarist who leads a careless life, and sins against chastity habitually privately or, what is worse, with others, must be warned not to seek ordination under penalty of not being absolved from his sins if he declines to fulfil so grave an obligation. A probation of an entire year is not excessive.

(c) If a seminarist has sinned against chastity but not with others, nor has given scandal by his sins, and if they were infrequent and, as it were, accidental, that is, not due to a temperamental tendency towards unchastity, his confessor will exact a probation of some months without grave sin before allowing ordination. A period of six months is not excessive.

(d) A seminarist who, after warnings, has not overcome a vicious habit in this matter up to the beginning of his third year of theology, should certainly abandon clerical life.

(e) A seminarist almost on the eve of ordination may not have given a sufficient proof that he has overcome a vicious solitary habit. He must be told not to offer himself for ordination. This would be the more necessary, if he were about to be ordained deacon or priest. The prohibition must be laid on him with the greater force if he has frequently sinned with others, whether in the seminary or during vacation. It is not easy to determine what frequency in sinning could be said to constitute a habit, or if not a habit, then a frequency sufficient to be an obstacle to ordination. Half a dozen sins with another or others, or a monthly recurrence of solitary sin, would be evidence that such a person was unfitted for ordination. Perhaps the best that could be done would be for him to be sent to another seminary for further probation, unless, and this seems preferable, he is told to depart altogether.

(f) Since the two sinful habits of impurity and intemperance are extremely hard to eradicate—apart from sudden conversion—one who is addicted to either must be warned off the clerical life, unless, as stated, a protracted probation is insisted upon and freedom from grave sin has been established for certain. But the trouble with such sins is that they are recrudescent, and apt to be committed after ordination, if a priest becomes slack in his spiritual duties.

10. Clerics are warned against having women in their service, or visiting women, against whom there could be any suspicion; they are not forbidden to have women in the presbytery in whose case natural relationship precludes the suspicion of evil, such as mother, sister, aunt, and the like, and others whose proved integrity and years remove all possible grounds for suspicion. It is reserved to the local Ordinary to determine those cases in which a cleric may retain in

his house, or visit, even those women who arc above all suspicion, and the particular circumstances in which there might be scandal or danger to clerical continence. Clerics who do not obey their Ordinary in these matters are presumed to be living in concubinage (c. 133)·

ii. Life in common is an additional safeguard of clerical continence and a great help to regularity in the performance of spiritual duties. Such life is commended and urged. Where it obtains, it is to be continued, so that parish priests and curates living in the same presbytery may help one another in their spiritual life and pastoral work.

SECTION 5. Recitation of the Divine Office

1. The Obligation

(a) Clerics in major Orders, unless laicized (c. 214), are bound to recite daily, unless dispensed, all the canonical hours in accordance with the newly-arranged psalter (Pope Pius X, Nov. 1, 1911), and the Roman breviary reformed by Pope S. Pius V. This obligation begins from the reception of the subdiaconate, and at the part of the office which corresponds to the time of ordination. The Litany of the Saints must also be recited on the feast of S. Mark and the three rogation days; it may not be anticipated. The private recitation of the Litany is probably not a grave obligation.

(à) The obligation of reciting the divine office involves that of reciting the correct office, with some exceptions which will be mentioned. The omission of an integral part of the office, as for example, one of the little hours (according to common opinion) is a grave sin, except Vespers of Holy Saturday. Short omissions in the various parts of the office on one and the same day can coalesce so as to constitute grave omission. The omission of the whole of the office assigned to a particular day is one sin. Similarly it is only one sin for a priest (or anyone obliged to recite the office) to get rid of his breviary, in order that he may be unable to say the office. If deliberately and without a serious reason a priest intended to omit the office more than once, while retaining his breviary, he would have committed one sin only, but by deliberate omission of the office on several days when he could say it, he would have committed a grave sin each day.

2. The Manner of Recital

(a) The recitation of the office must be vocal, that is, the syllables of the words must be formed with lips and tongue, but no vocalization or perceptible sound is necessary. Internal recitation, as it is called, without any movement of vocal organs seems to be insufficient. Mere reading of the divine office suffices for those who have this privilege.

(i) The words are to be pronounced without syncope or abbreviation; clipping the final syllables to more than an insignificant amount is a venial sin.

(r) Recitation must be devout, and therefore there must be an intention of worshipping God by prayer. This intention may be virtual. Attention to the words is necessary, but it need not be more than an external one, that is, the kind of attention which excludes attention to other external actions incompatible with reciting the office as a prayer.

(j) Voluntary distractions are sinful, at least venially, but slight ones do not substantially interfere with fulfilment of the law.

(«) To fulfil the law it is not necessary to be in the state of grace.

(J) The recitation must be substantially uninterrupted in each hour of the office. A brief inexcusable interruption is a venial sin, but the repetition of what has already been said is not necessary, unless interruption took place in a verse of a psalm or a sentence of a prayer. Matins may be separated from Lauds. One nocturn may be separated from another.

3. The Orderly Recital of the Office

(a) To substitute one office for another of the Roman breviary is a venial sin, unless there is some sufficient reason for doing so, but it would be serious to substitute without good reason an office notably shorter than the office prescribed. An inculpable substitution satisfies the obligation, but if the mistake is discovered before the incorrect office is completed, the correct office should be taken up from the point reached. However, it appears probable that the incorrect office may be continued and finished, if it is not notably shorter, or of a greatly different character.

(ά) It is venially sinful to invert the order of the hours, though this may be excused for a reasonable cause. One hour may not be omitted because another hour was inadvertently said twice.

(c) The orderly procedure in reciting the office privately, but not obligatory, is to recite Matins, Lauds before Mass, Prime and Terce before midday, Sext and None before or after midday, Vespers and Compline after midday, but Vespers may be recited during Lent before dinner from about n o'clock a.m., from the Saturday before the first Sunday of Lent, except on Sundays.

(if) One who foresees that he will be unable to recite Vespers and Compline at the normal time is probably not obliged to recite them before midday.

(‹r) The office of the day must, apart from reasonable excuse, be completed before anticipating Matins and Lauds of the succeeding day. Matins and Lauds may be anticipated from the second hour,

ė. from 2 p.m. Those who have the privilege of anticipating Matins and Lauds from 12 p.m. must have finished the office of the actual day before availing themselves of the privilege. Compline may, however, be deferred till the evening.

(y) For a sufficient reason all the psalms of Matins may be recited before the lessons.

(g) The time for the private recitation of the office may be local time, whether true or mean solar time, legal time, whether regional or other, or any other approved time (c. 33).

(Λ) The office is the burden of the day, that is, of twenty-four hours, but when twenty-four hours have elapsed from the inception of the recitation, there is no obligation of using the advantage of local time, true or mean solar, to complete the office if it has not been all recited.

(i) If all the office cannot be recited, that part which can be recited is matter of obligation.

4. Causes which Excuse from Recital

(a) Impossibility arising from physical causes, such as blindness, sickness, weariness, convalescence. But if a notable part of the office can be recited from memory, that must be recited, if reasonably possible, but according to the order in the breviary, that is, one is not obliged to recite psalms which are in different hours of the office.

(è) Moral impossibility or grave inconvenience or the likelihood of such inconvenience excuses, as poor sight, bad light, scrupulosity which urges a priest to be constantly repeating what he thinks, but is not sure, that he omitted.

(c) In serious doubt as to the existence of excusing causes the obligaticn ceases.

(</) External causes excuse, such as danger of exciting atheists to blaspheme, the need of food, recreation, sleep, service of the sick, a great number of confessions to be heard, a sermon to be urgently prepared, the giving of a retreat or mission if concentrated preparation is necessary, work that cannot be deferred.

W A priest can obtain dispensation or co:Mill utation either permanently or for a time.

5. Prayerful Recital

Since the divine office is a prayer, it must be recited devoutly, preferably where there are no external distractions, and best of all in presence of the Blessed Sacrament. Those in Sacred Orders can gain a plenary indulgence for reciting the whole office, even if interruptedly, in presence of the Blessed Sacrament, exposed or not exposed, that is, though it remains in the tabernacle. The other conditions are, sacramental confession, reception of Holy Communion, and prayers for

the Pope's intentions. If only parts of the office are recited as above, an indulgence of five hundred days may be gained for the recital of a canonical hour. If a priest has had the office commuted to other prayers, a plenary indulgence may be gained by reciting the substituted prayers and under the same conditions *(Preces et Pia Opera,* n. 736).

6. The Kind of Office to be Recited

(a) One who is bound to recite the office must follow the rules of his own calendar. Priests without a benefice follow their diocesan calendar. If priests reside some time in another diocese, they adopt the calendar of that diocese. Religious obliged to choir adopt the office in choir of the house in which they are staying; if not obliged to choir, and if staying in another house of their Order for at least a month, they may recite the office of their own house; if for more than a month, they follow the calendar of the house where they are. Religious on a journey follow their own calendar; if staying outside a house of their Order, they follow the calendar of their owm house or province.

(b) When priests recite office with one another, each must recite at least alternate verses of the psalms and attend to the recitation of the other verses. One priest may recite antiphons, chapters, lessons, and prayers for the others who must attend to what is recited. If a priest in these circumstances cannot hear at all, he must recite the whole office himself. It is not necessary to repeat what was recited in choir but not heard, or attended to, whilst incensing during the Magnificat, or when performing necessary ritual actions. An organist, whilst playing the organ can, if he wishes, attend sufficiently to what is chanted by others, but must recite or sing alternately.

SECTION 6. Clerical Dress

1. All clerics must wear a becoming ecclesiastical dress in accordance with legitimate local custom and the prescriptions of the local Ordinary, even during vacations (S.C.C. July 28, 1931). Special attention is directed to the wearing of a becoming dress (especially of the outer garment reaching to the ankles) when celebrating Mass and administering the Sacraments. The Fourth Synod of Westminster, the decisions of which in this respect have been re-affirmed, prescribed the wearing of the Roman collar and a dress of dark material always, and of cassock in church and presbytery.

2. Clerics in minor Orders who, on their own initiative, put aside the clerical dress without a sufficient reason, and also cease to wear the tonsure, must be admonished by their Ordinary and are bound to obey him. If they do not obey within a month without a sufficient

reason they become secularized. Clerics in major Orders who set aside the clerical dress without sufficient reason for six days sin grievously; for persistent negligence they may be suspended from office and even degraded; if they notoriously lead a life alien to the clerical state they may be degraded after admonition and disregard of it for three months (c. 2379).

3. The tonsure is prescribed unless its use is contrary to the received custom in a jjiven country. The hair is to be simply dressed and all affectation and foppishness are to be avoided. Beards may not be worn without permission of the local Ordinary. The wearing of a ring is not permitted except by those to whom the law or Apostolic induit allows it.

CHAPTER V

OCCUPATIONS AND AMUSEMENTS FORBIDDEN TO CLERICS
(cc. 137-142)

1. Boil

Without consulting his local Ordinary, a cleric may not go bail even on his own personal property, whereby he obliges himself, his heirs, executors, or administrators, to assume responsibility for another's financial obligations. The prohibition protects clerics from slanders which inevitably arise when a cleric makes mistakes in money matters; it is also intended to protect his interests.

2, Unseemly Occupations

Clerics must abstain from such occupations as are unbecoming to their state, most especially if they are indecorous.

Games of chance with money staked are forbidden, since these have the appearance of gambling and become too engrossing. Even the priest may be tempted to indulge too long and too often in such games if he is not careful. But the law does not forbid occasional games for money, provided that they are moderate and do not give scandal. This rare indulgence is allowable more especially when skill is added to chance. But skill is only acquired at the cost of much time expended.

4« Hunting

Clerics are forbidden to make a practice of indulging in hunting, even of the quieter sort, never to indulge in the more boisterous sort,

when a pack of hounds and many hunters are employed, as is usual in fox-hunting. To follow' the hunt, even of the latter sort, is not to hunt, and therefore does not come under this prohibition, but scandal might easily arise by too frequent a practice of it. On that ground therefore clerics should avoid it.

Taverns and such like places may not be entered by clerics without necessity, or some other just reason approved by the local Ordinary. Night clubs and public houses would be generally regarded in this country as very unsuitable places for a cleric to enter, but not cafés, buffets, hotels, restaurants, country inns, if they are known to be respectable. The custom in foreign countries of drinking wine outside estaminets gives no scandal as a rule.

6. Medical and Surgical Practice

Without Apostolic induit, clerics may not practise medicine or surgery; the latter is termed medicine with cautery or incision. The prohibition is against the habitual exercise of these professions, so that an occasional prescription made out by a cleric for a sick parishioner—though it may be a foolish and sometimes a dangerous procedure—is not contrary to the law. The prohibition extends to Sisters of religious Institutes and laybrothers. Surgery is forbidden because it may involve the danger of death or mutilation. Permission is now given by the Holy See for missionary Sisters to take courses in medicine, especially preventive, in order to diminish the terrible child mortality in the foreign missions.

7. Lego] Occupations

Clerics are not allowed, without permission of the local Ordinary, to act as accountants for lay persons, or to undertake secular duties which involve the rendering of accounts. Nor may they exercise the offices of proctor or advocate except in ecclesiastical tribunals. In criminal cases, when a grave personal penalty may be inflicted, a cleric is to take no part, not even as witness, except in a case of necessity.

Clerics may not seek or undertake the duties of membership in legislative assemblies without permission of the Holy See in those places where the papal prohibition obtains. In other places, they may not stand for election for membership of such assemblies without the permission of both their own Ordinary and of the Ordinary of the place where the election is to take place.

9. Shows, Dance·, etc.

Clerics may not be present at shows, dances, or other exhibitions, which are unbecoming to their state, or at which clerics cannot be present without giving scandal, especially in public theatres. Local prohibition may go beyond this, as in England and Wales. In these countries a cleric in Sacred Orders may not be present at plays in a theatre or any place serving as a theatre; the offence carries a suspension reserved to the respective Ordinary. The prohibition in this country does not extend to presence at plays performed by school-children, nor at plays acted even by adults in school buildings or parish halls.

10. Military Service

A cleric may not volunteer for military service except with permission of his local Ordinary so as to be free the sooner from the obligation, if there is one. They may not in any way assist in civil wars or disturbances of public order. A cleric in minor Orders who voluntarily enlists contrary to the aforesaid rules, forfeits his clerical status. The carrying of military weapons is forbidden, except when they are needed for self-protection.

IL Trading

The trading and commercial transactions forbidden to clerics are buying or selling for profit, whether for themselves or for others. What is precisely forbidden is certainly lucrative trading in the sense that a thing is bought with the intention of selling it at more than it cost without any change in it, or labour expended on it. Clerics are excommunicated who act in this way (cf. Reserved Excommunications, Chap, ix., Sect. 2, n. 13).

(a) The following are forbidden kinds of business:

(i) Every] kind of trading that is unbecoming to clerics.

(ii) Lucrative trading carried on by a cleric or in his name.

(iii) Lucrative money-changing.

(iv) Lucrative work if carried on by others than the cleric in the name of the cleric, as if a cleric engaged workmen to run a business on his behalf.

(έ) Business not forbidden.

(i) Economic business that is nothing more than a wise administration of property, as if a cleric sold the fruit of his garden, or what remained over from what he had bought for his own use, but sold when an occasion of profit offered itself, or when a cleric sells the product of his art, skill, or labour.

(ii) Selling the product of one's own labour or of the labour of others on farm, garden, or vinery. Thus the following examples are

given: the bursar of a college may buy school materials to sell to scholars; objects of devotion, as unblessed rosaries, emblems, medals, statues, pictures, may be sold by a parish priest to the faithful with a profit to correspond Avith his labour, the interest on the purchase money, and the inevitable loss incurred. But in all cases the cleric must avoid the appearance of money-making.

Again, a cleric may sell the wine which hired workmen have manufactured for him out of his own grapes, the cattle, sheep, pigs, poultry, eggs, com, hay, vegetables, cheese, butter, milk, etc., which his farm produces even with hired labour. He may charge an author for transcribing a manuscript; he may hire the services of a printer to print his work which he expects to sell at a profit. He may invest his money in profitable shares, chiefly that it may be safe and fruitful, and even if he foresees and intends to sell out at a profit. He may purchase land which contains mineral deposits in order to work it, and land for pasturage, or house building. Beasts of burden may be bought in order that they may be let out at a profit.

12. Investments

The following conclusions in regard to investments appear to be admitted:

(a) The purchase of debentures is the loan of money to Government or a company at interest. The holder of them is not engaged in trading, and if the purpose for which the money is used—with which the cleric should acquaint himself—is not objectionable, he may purchase debentures.

(ά) The purchase of shares constitutes the purchaser a shareholder and a member of the company whose shares he has bought. He then has the right to vote and determine the policy of the company, which he must assure himself to be irreproachable.

(c) It is certainly forbidden to a cleric to gamble on the Stock Exchange, or to make it his business to buy shares or debentures in order to sell when prices are high.

(d) As to shares in industrial and commercial companies, it does not appear wrong for a cleric to buy them, provided that the purpose and methods of the companies are legitimate and irreproachable, and that he takes no part in the direction of the companies. As stated above, he may not make it his business habitually to buy and sell shares, for the prohibition is against the frequency of such transactions.

(e) The floating of a company by a cleric would easily give scandal, lead to cupidity, and require too much concentration of mind; for those reasons, at least, it must be avoided; much more definitely must the administration of a commercial company be avoided by clerics.

(f) It is not contrary' to the canons for a cleric to sell out his shares

when the market is falling in order to preclude losses, nor to buy when the market is rising in order to make a profitable investment, always excluding speculation.

(g) If a cleric succeeds with his brothers to their father's commercial business, he may carry on his part of the business through lay people.

(A) If a cleric needs to supplement his meagre income, or if he is likely to fall into want, or if his relatives are in need, then a certain amount of profit-making will be allowed by his Ordinary, if his transactions are not unbecoming to the clerical state.

CHAPTER VI

RESIDENCE
(cc. 143, 144)

i. Clerics who have a benefice or an office to be fulfilled where they habitually reside are bound to reside in that place.

2. Other clerics may not be absent from their diocese for a notable time without the permission, at least presumed, of their Ordinary.

3. If a cleric has passed to a diocese other than his own with the permission of his Ordinary, whilst he still remains incardinated in his own diocese, he can be recalled for a just reason, and in accordance with natural equity.

4. An Ordinary may, for a just reason, refuse a cleric permission to remain in his diocese if he does not belong to it, unless the Ordinary has conferred a benefice on him, since that is equivalent to incardination.

TREATISE X
THE RELIGIOUS STATE

CHAPTER I
NATURE OF THE RELIGIOUS STATE
(c. 487)

SECTION 1. The Religious State in General

The religious state is a fixed permanent state of Christian life lived in common, in which God is more perfectly worshipped than in other states. It is a fixed state, inasmuch as a Religious has bound himself or herself under vows to live in that state. Even where temporary vows are taken the subject must intend to renew temporary vows at the fixed times. The intention of living in religious life for a period only would not be a right intention. Furthermore, it is a state in which the Religious aims at acquiring Christian perfection by the observance not only of the ordinary precepts, but also of the counsels by the vows of poverty', chastity, and obedience, and of the rules of the Institute.

SECTION 2. The Nature of the Religious State

I. All men are obliged to love God, that is, to be united to Him by charity, but the Religious is bound to aim at the perfection of charity, whereby he continuously tries to do what charity impels him to do, and excludes from his human affections all that is opposed to charity, and to anything that would hinder him from wholly directing his mind and will to God (S. Th. 2. q. 184, a.3, c).

The religious state is, therefore, a state of perfection because it is a fixed, permanent, external and visible state of life in which the Religious aims at obtaining and exercising perfect charity and at excluding all obstacles to that virtue. The Religious binds himself by vow to use certain means of achieving the perfection of charity, whereas in secular life men, though bound to be united to God, have no obligation in regard to any specific means of doing so over and above the common obligations of all Christians. But approval by the Church is also required that a state of life may be called and be the religious state.

The temporary vows taken in certain religious Institutes are virtually perpetual, for a Religious who takes these vows may not exclude the intention of renewing them at certain intervals all through life. The liberty of abandoning religious life after the period for which

temporary vows were taken is based on some sufficient reason which is then verified.

Though common life in religion is prescribed by the Church, that fact does not exclude from true religious life a Religious who legitimately lives outside his religious house, or one who has been appointed a Bishop, since both of these remain truly Religious.

2. The three vows of religion remove the obstacles to divine charity which arise from the threefold concupiscence of the eyes, the flesh, the pride of life. The Religious renounces what he might have legitimately done in the world, namely, amass a fortune, enter into the married state, and live an independent life without any vowed subjection to another.

3. Religious vows must be taken publicly, that is, accepted in the name of the Church by a legitimate ecclesiastical Superior. Vows taken by Sodalists or others like them are not public in this sense.

CHAPTER II

CANONICAL DEFINITIONS
(c. 488)

I. A religious Institute *(religio)* is a society approved by the Church, whose members aim at evangelical perfection in accordance with the rules of their Institute, by taking public vows, perpetual or temporary, the latter being renewable after fixed periods.

2. A religious Order is an Institute in which solemn vows are taken.

3. An exempt Institute is one that is exempt from the jurisdiction of the local Ordinary'.

4. A Religious Congregation is an Institute whose members take simple vows only, whether perpetual or temporary.

5. A pontifical religious Institute is one that has obtained from the Apostolic See either direct approbation or a decree of commendation.

6. A diocesan Institute is one which has been erected by the Ordinary, but has not received a decree of papal co[illegible]endation.

7. A clerical Institute is one in which the majority of the members are destined for the priesthood.

8. A lay Institute is one in which the majority of the members are not ordained priests, nor intend to be ordained.

9. A religious house is a house of a religious Institute.

10. A house of Regulars is a house of a religious Order.

11. A formed house is a religious house in which there are at least six professed Religious, of whom four at least must be priests if the house is one of a clerical Institute.

12. Religious are those who have taken vows in a religious Institute; members of a religious Congregation take simple vow's; Regulars are those who take vows in a religious Order; Sisters are religious women who take simple vows; Nuns are religious who take solemn vows, or whose vows, though solemn according to their Institute, are in certain regions simple in accordance with Apostolic prescription.

13. Higher Superiors are Abbot Primate, Abbot Superior of a monastic Congregation (the union of several independent monasteries under one Superior), Abbot of an independent monastery, Superior General of a religious Institute, Provincial, their vicars, and all others who have power equal to that of Provincial.

CHAPTER HI

THE GOVERNMENT OF RELIGIOUS
(cc. 499-519)

I. All religious are bound to obey the Pope in virtue of their vow of obedience. They are also subject to their local Ordinary unless exempted by the Apostolic See, but without prejudice to special powers granted to local Ordinaries by common law in some clearly defined matters over even exempt Religious.

2. Superiors and Chapters have dominative power over their subjects in accordance with their respective constitutions and common law. In a clerical exempt Institute, Superiors have ecclesiastical jurisdiction in both the external and the internal fora.

3. In every' clerical religious Institute, the Superior has the right and duty, personally or by proxy, to administer Holy Viaticum and Extreme Unction to those sick who are professed, and novices, and others dwelling in the religious house day and night for domestic service, education, hospitality, or illness (c. 514). The Superior has also the right to administer Holy Viaticum and Extreme Unction outside the religious house to professed Religious and novices, when these are ill, without prejudice, however, to the right of the local parish priest to administer Holy Communion publicly to the sick of his parish outside the church (P.C.C.J., June 16, 1931).

4. For members of a lay religious Institute, the aforesaid right and duty belongs to the local parish priest, or to the Chapter if appointed in place of the parish priest in accordance with the canons.

CHAPTER IV

RELIGIOUS VOCATION

i. Vocation to the religious life may be, though usually it is not, a special inspiration of the Holy Spirit manifested in some way that is clear to the individual, or to the Superior who admits the aspirant to religious life.

2. The sufficient signs of a vocation are fitness to fulfil the obligations of the life, a right intention in seeking admission into it, and acceptance by the legitimate Superior.

3. Vocation to this life is offered by God to all who could fulfil these necessary conditions.

4. Since Christ Our Lord said to the young man: "If thou wilt be perfect, go sell what thou hast, and give to the poor, and thou shalt have treasure in heaven, and come, follow me" (Matt. xix. 21), it is obvious that the full perfection of charity is to be normally acquired in religious life, but this fact does not exclude the possibility of a saintly life in the world. Nevertheless as Our Lord laid down the conditions of the perfect life, it is not permissible for confessors or directors to suggest any other manner of life for acquiring the perfection of charity. Persons who live in the world, and priests who do not belong to any religious Institute can lead holy and very saintly lives, but they are not living in the state of perfection, that is, in a life in which they oblige themselves to acquire perfection by observing the evangelical counsels in religious community. This is what is understood by the term, a life of perfection.

CHAPTER V

POSTULANTS AND NOVICES

(cc. 533-571)

SECTION 1. Postulants

I. Every Catholic may be admitted into religious life if not debarred from it by a legitimate impediment, if actuated by a right intention, and if fitted to bear the burdens of the state of life.

2. In the case of a religious Institute in which perpetual vows are taken, all women, and all those who intend to be laybrothers, must, before admission to the novitiate, spend at least six months as postulants; in other religious Institutes, the rules for postulants of the Institute must be observed. The higher Superior may extend the period of postulancy but not beyond a second six months.

3. Postulants must spend the time of postulancy either in the novitiate house, or in another house of the Institute where the discipline of the Institute is faithfully observed, and under the special supervision of an experienced Religious of the Institute.

4. The postulant must wear a becoming dress and one that is different from the dress of the novices.

5. Nun postulants are bound by the law of enclosure, not, however, under penalty of censure if they violate it.

6. Postulants must, before becoming novices, make a spiritual retreat of at least eight full days and a general confession of their sins at the discretion of their confessor.

SECTION 2. Novices

L Valid Reception

Certain requirements are necessary' for admission to the religious life as a novice. In addition to the postulancy, as explained, there are matters of a personal character which need explanation. Some conditions are essential for valid reception, some others are necessary for lawful reception as well. The following persons cannot validly be admitted into the novitiate:

(a) Those who have been aggregated to a non-Catholic sect, that is, those who have apostatized from the Catholic faith and have joined a schismatic, heretical, or atheistic sect.

(A) Those who have not completed their fifteenth year of age.

(c) Those who enter religious life under the influence of violence, grave fear, or fraud, or whom a Superior, being under similar influences, has admitted into religious life.

(d) A married person who is still bound by the bond of marriage.

(e) Those who are or have been bound by the bond of religious profession.

(/") Those who are liable to immediate punishment for a grave crime of which they have been or can be accused.

(g) A Bishop, whether residential or titular, or one merely nominated by the Roman Pontiff to either office.

(A) Those clerics who, by a disposition of the Holy See, are bound by oath to devote themselves to the service of their diocese or the missions, for the period for which their oath binds them.

1 Lawful Reception

The following persons can validly, but not lawfully, be admitted to the novitiate:

(a) Clerics in Sacred Orders without reference to their local Ordinary, or without his permission, if their departure would cause serious harm to souls that could not otherwise be precluded.

(b) Those who arc burdened with debt which they cannot discharge.

(c) Those who are liable to have to furnish accounts, or who are tied by other secular matters, owing to which the Institute they wish to join might have reason to apprehend lawsuits and annoyances of any other sort.

(d) Those whose parents or grandparents are in grave necessity and need their assistance, and also parents whose help is needed for the maintenance or education of their children.

(i) Those who, if they entered a religious Institute, would be destined for the priesthood but are debarred from it by some irregularity or other canonical impediment.

(f) Those who belong to an Oriental rite entering a Latin Institute, if they have not obtained the written permission of the Sacred Congregation for the Oriental Church, unless they are being prepared to set up houses and provinces of their rite (P.C.C.J., Nov. 10, 1925).

3. Necessary Testimonials

(û) Aspirants must, before admission to the novitiate, present certificates of their Baptism and Confirmation.

(ó) Male aspirants must also present testimonial letters from the Ordinary of their place of origin (domicile or quasi-domicile of father, or in defect of that, of mother) and from the Ordinary of every other place in which, after completing their fourteenth year of age, they have lived for more than a year practically continuously, notwithstanding any privilege to the contrary. These letters are not needed in the case of boys coming from the minor novitiate of the Brothers of Christian Schools for the time they spent there (P.C.C.J., July 28, 1918). This reply may be extended to Apostolic Schools.

(c) In the case of admitting aspirants who have been in a seminary for preparing clerics or Religious, such as an Apostolic school, or a postulancy, or novitiate of another Institute, it is necessary to have testimonial letters from the Rector of the seminary or college after consultation with the local Ordinary, or from the higher Superior of the said Institute. The case of one who left a secular seminary and wishes to become a Religious must be referred to the Sacred Congregation of Religious (S.C. de Relig. July 25, 1941), unless he passes

immediately from the seminary to the religious Institute *(Joe. cit* May 11, 1942).

(d) For a cleric, it is sufficient to have, besides the certificate of ordination, testimonial letters from the local Ordinary' of the place in which the said cleric has resided for more than one morally continuous year after ordination, without prejudice to what has been said *(supra c).*

(e) If a professed Religious wishes to join another Institute by virtue of Apostolic induit, the testimony of his higher Superior suffices.

(J) In addition to the aforesaid testimonials, a Superior who has the right of admitting aspirants can exact other testimonials. This Superior should not neglect to get other information about the moral qualities of the family from which the aspirant comes (S.C. de Rclig., Dec. i, 1931).

(g) Female aspirants must be examined as to disposition and character.

4. Dowry

(a) In monasteries of nuns, the postulant must provide a dowry that is determined by the Constitutions of the Institute or lawful custom, and it must be given before the habit is taken, or its payment guaranteed in a way recognized by civil law. In Institutes of simple vows dowry is determined by the rules.

(ò) In the case of Pontifical Institutes, no part of the dowry may be remitted without Apostolic induit; in the case of diocesan Institutes, the consent of the Ordinary is necessary and sufficient.

(c) The dowry is absolutely acquired by the monastery or Institute on the death of the Religious who gave it, even if her vows were

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(d) After the first religious profession, the dowry must be invested safely, lawfully and profitably; it may not be expended on any purpose before the death of the Religious. It must be administered at the monastery or house of habitual residence of the higher Superior. Local Ordinaries must see that dowries are kept safe and must demand an account of them at visitation.

(?) If a professed Religious quits religious life, whatever the reason, her dowry must be returned to her intact, but not the interest that accrued; if she joins another Institute, only the interest must be given to the latter during her novitiate, without prejudice to the rule (c.570, §1) that payment for food and clothing during postulancy and novitiate may be legitimately exacted. After her profession in the other Institute, the dowry must be transferred. If the aforesaid Religious passes to another monastery of the same order, the dowry must be given to it from the day of change of residence. If, when a nun quits religion, the dowry is not

sufficient for her maintenance, the Institute must supply her with a charitable subsidy (S.C. de Rclig., March 2, 1924).

5. Testing the Candidate

(a) The Superioress must notify the local Ordinary two months before admission of a candidate to the noviceship, and before professions tem-porary' and perpetual.

(à) The local Ordinary or his substitute must, at least thirty days before the postulant is admitted to the noviceship and also before her profession, examine her dispositions, namely, her freedom in taking the step, her understanding of it and her intentions.

SECTION 3. Training of Novices

L Inauguration

The noviceship is inaugurated by taking the habit or by some other way in accordance with the constitutions of the Institute.

2. Duration of Noviceship

The noviceship must last for a whole uninterrupted year (with exceptions to be stated hereafter), and it must be passed in the house of the novitiate. The day of entrance is not included. If more than one year is prescribed by the constitutions, the additional period is not necessary for the validity of profession, unless the constitutions rule otherwise. An Apostolic induit is required that the canonical year of the noviceship may be transferred to the second year (P.G.G.J., Feb. 12, 1935)· The local Ordinary can dispense from the second year of novice-ship in diocesan Institutes, if a second year is not required for the validity of profession *(loc. cit.)*.

3. Interruptions in the Period of Noviceship

(a) The noviceship must be recommenced and completed if a novice had been dismissed by the Superior and had left the house.

(ȯ) If the novice without permission left the house with the intention of not returning, the same rule applies.

(c) If, with permission or on any other ground, a novice has remained for more than thirty days, continuously or not, outside the house, the same rule applies after the return of the novice.

(J) If, with permission, or constrained (as for military service), a novice has spent more than fifteen but not thirty days, even interrup-tedly, outside the house, under the obedience of the Superior, it is necessary' that these days be made up; if the absence was for fifteen days or less, they need not be made up, but the Superior may insist that they be made«good.

(/) If a novice is transferred legitimately to another novitiate house of the same Institute, the noviceship is not thereby interrupted, but the time spent in the transfer is computed as dap of absence (P.G.C.J., July 13,1930).

4. **Other Prescriptions**

( ) The habit prescribed for noyaces must be worn during the yvhole period of noyaceship unless special circumstances permit othenvise. Thus in some countries, novices yvalk in cities in ordinary secular garb.

( ) In Institutes yvhose members comprise tyvo classes, the novice-ship of one class does not avail for that of the other class.

(c) The part of the house for the novitiate must, as far as possible, be separate from that part of the house in which the professed Religious live and novices may have no communication yvith the latter without permission given for a special and sufficient reason. A special part must be assigned to laybrother novices.

(<T) The noyaces must be instructed in the rules, constitutions, vows and virtues, and in the methods suitable for uprooting the germs of vice, regulating the movements of the soul and acquiring virtue. They must be engaged in pious meditation and assiduous prayer. The laybrothers must, in addition, be instructed in Christian doctrine by means of special conferences once a tveek.

(e) Novices may not, during the canonical year, be employed in preaching, hearing confessions, or in the external charges of the Institute, the study of letters, science, or art. The laybrothers may be occupied in domestic yvork consistent yvith the performance of the prescribed spiritual exercises.

CHAPTER VI

THE SPIRITUAL CARE OF RELIGIOUS
(c- 595)

i. Superiors must see that all their religious subjects make a spiritual retreat each year, assist at Mass daily, unless legitimately prevented, make the meditations and mental prayers and other exercises of piety prescribed by rules and constitutions, receive the Sacrament of Penance at least once each yveek. Furthermore, Superiors must foster frequent, even daily, reception of Holy Communion, but if a Religious has given grave scandal to the community since his previous confession, or has

committed a serious external fault, he can be forbidden to receive Holy Communion until he has made a sacramental confession.

2. Rules, constitutions and calendar, which determine the reception of Holy Communion on specified days are to be regarded as merely directive.

3. The rules of enclosure are to be enforced. This matter is treated separately later on.

CHAPTER VII

RELIGIOUS PROFESSION
(cc. 572-586)

I. Religious profession may be temporary or perpetual, simple or solemn. Temporary profession is made for three years unless particular constitutions impose yearly profession.

2. Solemn profession is the taking of solemn vows; but there is no essential difference between simple and solemn vows. The solemnity of vows involves a closer affiliation to the Order or Congregation, and the effect of invalidating acts contrary to the vows where possible in the nature of things.

3. For the validity of religious profession, the subject must be at least sixteen years of age in the case of temporary vows, twenty-one years in the case of perpetual vows, unless constitutions rule otherwise; the subject must have been admitted to profession by the legitimate Superior in accordance with the constitutions, must have completed a valid novice-ship, have taken temporary vows, unless the constitutions rule other-wise. The Superior can defer perpetual profession after the three years, but not beyond a second period of three years. When the period of temporary vows has lapsed, the Religious must either take perpetual vows or quit religious life.

CHAPTER VIII

STUDIES IN CLERICAL INSTITUTES
(cc. 5θ7-59ϋ

I. Every clerical Institute must have its approved house of studies in which life in common must be observed as completely as possible,

otherwise the students are not to be promoted to Orders. In default of such house, the canons allow the studies to be pursued in another province, or Institute, or episcopal seminary, or public Catholic school.

2. The students may not reside in private houses, and if they study outside a religious house of their Institute, it must be done in some religious house of men, or a seminary, or some pious house ruled by priests and approved.

3. During the course of studies, the Religious must be under the care of a spiritual director.

4. After the preliminary' lower studies, Religious must study philosophy for at least two years, and theology' for at least four years, and in their studies must follow' the teaching of S. Thomas Aquinas.

5. No interference with studies may be allow'ed, but students may be exempted from some of the common duties, even from choir, especially during the night.

6. Priests who are members of a religious Institute must, on the conclusion of their studies, be examined in the sacred sciences each year for five years unless they are exempted, or are teaching theology, scholastic philosophy, or Canon law.

7. Religious who are engaged in their course of theology and those also who have completed it and live in the same house are to attend monthly conferences of conscience on matters of moral theology and liturgy; dogmatic theology and allied sciences may be included, unless the rules of the Institute make other provision for the conferences.

CHAPTER IX

SOME EFFECTS OF RELIGIOUS PROFESSION
(cc. 578-585)

In addition to the obligations which result from religious profession, the following effects ensue:

1. Those who have taken religious vows, whether temporary or perpetual, solemn or simple, enjoy all the spiritual favours granted to their respective Institutes. In case of death, all the members, novices included, have a right to all customary suffrages.

2. Religious, even lay, and novices, enjoy the privileges of clerics.

3. Solemn profession renders acts contrary to the vows invalid, if they can be nullified; simple profession renders such acts illicit, but not invalid; but the simple vow of chastity in the Society of Jesus is a diriment impediment to marriage.

4. Those who have macle simple profession retain the proprietorship of their property and can acquire other property, unless the constitutions rule otherwise.

5. Whatever a Religious acquires by his industry, or when acting as a member of his Institute, belongs to the Institute.

6. Apart from Apostolic induit, after solemn profession what accrues to a Regular belongs to his Order, Province, or House, in accordance with the constitutions of the Order if it is capable of ownership; if not capable, it belongs to the Holy See.

7. One who is professed even of simple vows may not gratuitously abdicate the dominion over his property by a voluntary deed of conveyance *(per actum inter vivos),* nor may he alter the Will already made in accordance with the canons (c. 569, §3) without permission of the Holy See, or in cases of urgency without that of his higher Superior, or, if the latter cannot be consulted, without permission of his local Superior.

8. A parochial benefice is ceded one year after religious profession; other benefices three years after.

9. One who makes religious profession of perpetual vows ceases to belong to the diocese which he had as a secular.

CHAPTER X

THE OBLIGATIONS OF RELIGIOUS
(cc. 592-612)

SECTION 1. Perfection

A religious is obliged to fulfil the purpose of his state of life, namely, to aim positively at perfection by perfect union with God. This obligation is not the same as the observance of the vows, but a Religious sufficiently aims at perfection if he observes them and the rules of his Institute. A Religious is also seriously obliged to refrain from despising perfection, from violating the vows or other grave precepts, contemning the rules or his Superior's authority, or making himself unfit to remain in religion.

SECTION 2. Clerical Obligations of Religione

All Religious are under the obligation of observing those rules which affect clerics (cc. 124-142), unless, in the nature of things, they do not apply to them.

SECTION 3. The Vow of Poverty

( ) By the vow of poverty, a Religious obliges himself to renounce all material goods to the extent and in the manner determined by his Institute.

( ) Professed Religious are forbidden by the vow of poverty to have an independent personal proprietorship, or independent use of anything whatever that is measured by money value, nor may they dispose of what they acquire—if they can acquire—without violating both justice to the Institute and the vow of poverty.

(c) The professed of the solemn vow of poverty are incapable of ownership; the professed of the simple vow of poverty are capable of acquiring ownership of material goods, unless their Institute forbids it, but they may not freely dispose of, or use their property independently of their Superior.

(d) The object of the vow of poverty is what is external and has a price. Reputation is not such an object, nor are the manuscripts that have money value of a Religious so long as he retains them; he would violate the vow by disposing of them without permission (S.G. de Relig., July 13, 1913).

(r) The vow* of poverty is violated by accepting presents to be retained without permission, at least reasonably presumed; by making gifts without similar permission; by renouncing an acquired right, such as a legacy, but refusal of a personal alms is not an offence against poverty but against charity towards the Institute; by exchanging chattels, but not if they are of the same fungible character, such as money, nor probably if they are similar in nature though not fungibles; by accepting gifts of food, or drink to be consumed in the religious house without permission, but probably not if such was consumed at the invitation of extems at their houses; by lending articles for consumption or use, but this is not a serious violation if a mere loan took place for a brief interval and restitution was certain; by using money or chattels for purposes other than those for which the Superior gave them; by considerable negligence in the use of things allowed by Superiors such as books, paper, clothes; by retaining things beyond the permitted time, such as books needed by other Religious; by concealing articles, even if borrowed with permission, so that the Superior could not recover them if he wished to do so, unless they are kept safely locked away for a legitimate reason; by destroying things for one's own benefit; by accepting a deposit of money for one's own use, but probably not if the depositor retains both the ownership and the right of disposal, or if the purpose of the outlay was specified by the donor, or if the purpose was left to the Religious to determine, without prejudice, however, to the rules of the Institute forbidding this.

(/) The permission of a Superior necessary to preclude a violation of poverty may be express, tacit, or reasonably presumed, and custom determines what is reasonable in the matter. However, when permission is presumed to accept something, this does not include permission to retain and use the thing if the Superior can be approached. A Superior can validly and lawfully forbid appeal to the principle of presumed permission in particular cases.

(g) If a Superior wrongly gives permission for superfluities, he violates the vow, as also does the subject by knowingly availing himself of such permission.

(A) Unless permission once given for the use of a thing has to be renewed, the permission remains valid after the Superior has relinquished office, but he cannot validly give permission for the use of a thing subsequently to his going out of office.

(:) Express permission given for medals, rosaries, and other small articles of devotion, is interpreted as a permission to distribute them and to accept them if offered.

(j) Small customary alms to the poor may be given by a Religious unless the Superior has forbidden this.

(A) Violation of the vow of poverty is a sin against religion; it may also be a sin against justice. A serious sin against justice in theft is a serious sin against the vow. But a relative standard must sometimes be taken. The case depends on the kind of poverty professed in the Institute, and the relative standard depends on the financial condition of the religious house. Justice is violated if a Religious takes or keeps as his own what belongs to the house or Institute, or disposes of it, destroys, gives away, or lends the same without permission.

(Z) In the matter of food and drink illegitimately consumed by a Religious, a grave sin will not be committed against the vow unless the things consumed are very expensive.

(zn) It is probable that small violations of the vow which do not also violate justice do not coalesce so as to constitute grave matter; they would do so, if the Religious intended to take a grave amount by instalments, or retained them so that they accumulated and became a grave sum.

(n) Since a Superior is the administrator of the goods of the Institute, the subjects cannot be regarded in the light of sons of a family, but thefts by a Religious of the common goods of the Institute or house may be more leniently judged than thefts by an extern, for the common goods are destined for the use of the Religious.

(0) A Religious who has sinned against justice in regard to his Institute can make restitution by retrenching permissible expenditure.

SECTION 4. The Vow of Chastity

(a) This vow obliges a Religious under the vow to refrain from all sins against the sixth and the ninth commandments, and also from contracting marriage. The solemn vow is a diriment impediment to marriage, the simple vow is prohibitory but not diriment, but the simple vow in the Society of Jesus is diriment.

(b) A valid unconsummated marriage between two baptized persons, or between a person baptized and one not baptized, is dissolved by solemn religious profession.

(c) A Religious under solemn vow of chastity who presumes to contract marriage, even civilly, incurs excommunication simply reserved to the Holy See, as also does the partner of the said Religious. A Religious professed of simple and perpetual vow of chastity who contracts marriage without dispensation incurs excommunication reserved to the local Ordinary*, as also does the partner (c. 2388).

SECTION 5. The Vow of Obedience

(a) The vow of obedience is a promise made to God to exercise that obedience due from a subject to his religious Superior, in accordance with the constitutions and rules of the Institute.

(b) When the vow is invoked, the Religious must, in virtue of the vow, obey the Pope, the Superior General, the Provincial, the Superior of the religious house, and if custom sanctions it, those to whom the Superior has communicated his powers, as Prior and Minister. Religious who are not exempt must obey the local Ordinary, and even exempt Religious must do so in such matters as are provided for in the Canon law of the Church.

(c) The remote subject matter of this vow includes all that is explicitly stated in the rules and constitutions, and everything virtually contained in them. Probably internal acts cannot be imposed in virtue of the vow. In positive doubt as to a Superior's power of ordering by virtue of the vow, the presumption favours the Superior in all matters within his province. In positive doubt as to the rectitude of a Superior's orders, the subject is bound to obey in all matters that are morally correct, even probably so. In negative doubt, presumption favours the Superior.

(d) The proximate matter of the vow includes all strict precepts which are imposed on a Religious as such, in accordance with the rules and constitutions, and which regard the religious state and religious perfection. A Superior is considered to invoke the vow of obedience when he gives an order in such terms as, "by virtue of obedience", "in the Name of Jesus Christ."

(«) Λ sin against the vow is committed if a subject transgresses a strict precept imposed on him by his Superior when it refers to the Religious as such, when he withdraws himself from subjection to his Superior, as by departure from the religious house without permission, by apostasy, by procuring his dismissal, by refusing to obey at all, or in some specific grave matter. If, however, he refuses to obey in a slight matter—apart from real contempt of authority—on the plea that what is ordered is useless or slight or absurd, his sin will not be grave.

(/) The violation of this vow is a sin against religion and is a sacrilege.

CHAPTER XI

RENUNCIATION OF PROPERTY
(cc. 569, 589)

SECTION 1. Disposal of Property

I. Before the profession of simple vows, whether temporary or perpetual, a novice must cede, for the whole period of his simple vows, the administration of his property to whomsoever he wishes, and unless the constitutions rule otherwise, dispose of its use and usufruct. If this procedure did not take place because the novice possessed no property, and if subsequently he came into possession of property, or if the cession and disposal had been made and he had come into possession of more property, he must make such cession and disposal even after having taken the simple vows.

2. But the Religious professed of simple vows can modify the arrangement he has made, not, however, at his own choice, unless allowed by the constitutions; but he may do so with the permission of the Superior General, and in the case of nuns, with permission of the local Ordinary, and if the convent is subject to Regulars, with the permission of the Regular Superior. This modified arrangement, if made, must not be made, at least for a notable part of the property (about one quarter), in favour of the Institute. If the Religious withdraws from the Institute, the aforesaid cession and disposal cease to have effect.

3. The Will to be made by a novice must be made even if it is civilly invalid, but care must be taken that, as soon as possible, a Will is made that is civilly valid, but without changing any of its previous dispositions, except in accordance with what has been said.

SECTION 2. Proprietorship (cc. 569, 589)

The Religious who has taken simple vows, whether temporary or perpetual, retains the proprietorship of his property, and the capacity of acquiring other property, without prejudice to what has been stated above (sec. 1), but the constitutions of his Institute must always be observed.

SECTION 3. Renunciation

1. The professed of simple vows must, apart from special Apostolic induit, make a renunciation of all his property within sixty days immediately preceding his solemn profession, in favour of whomsoever he wishes, on condition of making his profession. After his profession, the renunciation must be made effective in civil law. A Religious professed of simple vows in any religious Congregation may not abdicate his property gratuitously, that is, the dominion over it, by a voluntary' deed of conveyance *{actus inter moos).*

2. After solemn profession, apart from special Apostolic induit, all property that accrues to a Religious cedes to the Order, province, or house, in accordance with the constitutions, if the Order is capable of ownership; if it is not, the property cedes to the Holy See.

CHAPTER XII

ENCLOSURE AND CHOIR (cc. 597-610)

SECTION 1. Nature of Enclosure

I. The purpose of enclosure imposed on Religious is to keep lay persons out of the religious house and to keep the Religious in it. Religious abandon the world for the purpose of their own sanctification and perfection, and the Church screens them by the law of enclosure from the dangers of engaging in secular pursuits and distractions. Religious take into religious life their human nature; enclosure safeguards the vows, especially those of chastity and poverty.

2. Papal enclosure which extends to all houses of Regulars includes those parts of the house and estate which are set aside for the religious community, excluding the public church and its adjoining sacristy,

the guest house, if any, and the parlours, which should, if possible, be situated near the entrance of the house.

3. The parts of the. enclosure must be clearly determined and indicated by the higher Superior or general Chapter, or in the case of nuns by the local Ordinary.

4. The law of enclosure of male Regulars forbids the entrance or admission into it of females, of whatever age, class, or condition, with the exception of the wives of the actual rulers of States and their retinue. Even female infants may not be admitted.

5. Where a house of male Regulars has annexed to it a part for boarders or others doing work proper to the Institute, the part should, if possible, be separated from the part reserved to the Religious and subject to the law of enclosure, and even the parts outside the enclosure reserved for such people or works should be debarred to women except for a just reason, and with the permission of the Superior for their admission.

6. The rules of an Institute determine when male Religious may go outside the enclosure. To be absent from the religious house for more than six months, except for the purposes of study, requires permission of the Apostolic See. This permission is thought to be tacitly given by the approval of ministerial work which demands a lengthy absence from the religious house.

SECTION 2. The Law of Enclosure

1. The law of enclosure affects all houses of Regulars, whether men or women, all houses of religious Congregations, whether papal or diocesan, and all houses of those who, without taking vows, live in common in accordance with the rules (c. 679 §2).

2. The law of enclosure of monastic nuns has been explained in an Instruction of the Sacred Congregation for Religious (Feb. 6, 1924; cf. Bouscaren, *Canon Law Digest,* I, pp. 314 sqq), in the following terms:

(a) The monastery and adjacent gardens and grounds must be so enclosed, that as far as possible, those within cannot see or be seen by persons outside.

(i) Windows facing the public street, or houses, or allowing of communication with outsiders must be provided with opaque panes or shutters, so that the view in and out will be obstructed.

(r) If the choir has a screen through which the nuns can see the altar, it should be so placed that the faithful from their places may not be able to see the nuns.

(«/) The confessional should be so arranged that the confessor is outside the enclosure, and the penitents within it.

(e) The place in which the nuns receive Holy Communion should be enclosed by a door or curtain so that the nuns may not be seen by the faithful, if any are present.

(J) At the gate of the monastery', in the sacristy, and elsewhere, if necessary', a revolving frame must be set up through which what is needed can be handed in. There may be a small opening in the frame so that what is put into it may be seen.

(g) The public church and adjoining sacristy are not included in papal enclosure; hence the nuns may not go into those places without an induit from the Holy See.

(A) The law of enclosure is violated either by illegitimate withdrawal from it by a nun on any pretext even for a short time, or by illegitimate entrance within it by any other person.

(i) After profession, a nun may' not go out of the enclosure except in cases of imminent danger of death, or of some other very grave peril, and such peril must be recognized beforehand in writing by the local Ordinary, if time permits. Such perils are fire, flood, collapse of the building, war, invasion by soldiers, disease, or insanity, if the two latter constitute a danger to the community.

(J) Permission to go outside the enclosure must be obtained from the Sacred Congregation when a nun is transferred from one monastery to another, or goes to found a new monastery, or to recuperate her health, or to act as Abbess, or Superioress, or Mistress of novices, or supervise the building of a new monastery.

(k) If there is an ambulatory on the roof, it may be used by the nuns if it is duly screened on all sides.

(l) The Superioress can obtain permission of the Holy See to allow the nuns to work in the church, if no one else is there and if it is locked.

(τη) Postulants, when dismissed, or on returning to secular life on their own account, may leave the monastery without papal permission; the same is true of novices and of those who took temporary vows at the end of the specified period, or when they are lawfully dismissed.

(n) The local Ordinary', or religious Superior, or one delegated by either, may enter the enclosure for purposes of local visitation only, but they must be accompanied by at least one cleric or a Religious of mature age. This rule refers to local visitation; personal visitation must be made outside the enclosure at the screen.

(o) The ordinary confessor, or the priest who legitimately takes his place, or failing those, any priest, may enter the enclosure—due precautions being taken—to administer the Sacraments to the sick, or to attend the dying. The precautions are that four nuns of mature age must, if possible, accompany the priest from his entrance into the enclosure until his departure from it. The confessor who hears the confessions of the sick must be accompanied to the door of the cell

of the sick nun by two nuns, who are to remain near the open door of the cel) and accompany the confessor to the door of the monastery. The same permission is given to the extraordinary confessor and to a priest who is legitimately summoned by a sick nun.

(/i) A priest may, with due permission of the Holy See, enter the enclosure to preach either in the choir or the chapter room, the aforesaid precautions being observed.

(ç) Those who hold supreme civil authority in the State, their wives and retinue, may enter the enclosure, as also may Cardinals.

(r) The Superioress may allow physicians, surgeons, and others whose services are necessary, to enter the enclosure, if due precautions are observed, and if the approval, at least habitual, of the local Ordinary is given. This approval may be presumed in cases of necessity. The precautions are that such persons must be known to be of good repute and excellent character, that they are accompanied to their place of work by two of the older nuns, that no other nun is allowed to speak to them except on official business.

SECTION 3. Safeguards of the Enclosure of Nuns

1. The keys of the enclosure of nuns must be kept by the Superioress; when necessary, she may hand them to other nuns officially appointed, if the need arises.

2. Aspirants enter the enclosure of nuns with permission of the local Ordinary; other girls require permission of the Holy See.

3. In the parlours where externs are permitted to speak with the nuns, in accordance with the rules of the Institute, there must be a double grille, twenty centimetres apart and fixed into the wall.

4. The enclosure of nuns is under the vigilance of the local Ordinary, who has power to punish those who violate the law, even if they are subject to Regular Superiors. The Regular Superior also has the duty of supervising the enclosure of nuns subject to his jurisdiction and can inflict penalties for its violation.

5. Those who, without legitimate permission, enter the enclosure of nuns, those who introduce or admit them, nuns who illegitimately withdraw from it, incur *ipso facto* excommunication simply reserved to the Holy See. The excommunication is not incurred by children under the age of puberty.

Note. Enclosure of Religious Congregations

1. In houses of religious Congregations, whether papal or diocesan, the law of enclosure must be observed; exceptions are the same as for the enclosure of nuns.

2. In special cases and for grave reasons, the local Ordinary can

safeguard this enclosure by censures, except in the case of an exempt clerical Institute.

3. There is no general law forbidding Sisters to go out of the enclosure, but the Superioress and the local Ordinary must see that they do not go outside the convent singly, except in a case of necessity. Entrance within the enclosure of Sisters is forbidden only to males.

4. For a just and reasonable cause, the Superioress may admit others besides those mentioned above inside the enclosure.

5. All who have custody of the enclosure must see that discipline is not relaxed, or the religious spirit weakened, by useless conversation with extems.

SECTION 4. The Obligation of Choir (c. 610)

1. "Where the obligation of reciting the divine office in choir exists, it must be recited in common in accordance with the constitutions of the house, in which there are at least four Religious who are bound to choir and not lawfully impeded, and where there are fewer if the constitutions so prescribe.

2. The Mass corresponding with the office of the day in accordance with the rubrics must be celebrated in the Institutes of men, and where possible in those of women.

3. Solemnly professed members who have been absent from choir must recite the canonical hours privately, unless they are laybrothers.

CHAPTER XIII

THE PRIVILEGES OF RELIGIOUS (cc. 613-625)

I. Every Institute enjoys those privileges only which are contained in the common law of the Code and those which have been granted by the Apostolic See.

2. Religious Institutes no longer communicate their privileges to one another, but the law (c. 613) is not retrospective, that is, the privileges communicated before the Code came into force still persist (P.C.C.J., Dec. 30, 1937).

3. Religious, even lay and novices, enjoy the privileges of clerics (cc. 119-123).

4. Regulars, both men and women, novices included, except those nuns who are not subject to Regular Superiors, arc exempt from the

jurisdiction of their local Ordinary, as well as their houses and churches, except in cases mentioned in the law. Religious Congregations are not so exempt, unless they prove exemption by a papal brief, as do the Passionists and Rcdemptorists.

5. Regulars even exempt must fulfil the following prescriptions of the local Ordinary—unless they have a contrary privilege: recite the prayers ordered, celebrate Mass prescribed (c. 612), explain Christian doctrine (c. 1334), especially on holy days of obligation (c. 1345), observe what is enjoined for divine worship (c. 1261), join in public processions ordered for some public cause, unless the Religious are strictly enclosed, or dwell more than three miles from the city (cc. 1291, 1292), observe the diocesan law for Mass stipends (c. 831, § 3), refrain from having divine services which would prejudice the catechetical instructions or gospel homilies in the parish church (c. 609, §3), contribute to the expenses of the diocesan seminary unless the religious house is supported wholly on alms, or has a college annexed to it whose work is for the common good of the Church.

6. There are several things which Religious may not do without the approval of the local Ordinary, such as to erect a religious house, expose the Blessed Sacrament publicly, establish pious associations, hold public processions outside their church except during the octave of Corpus Christi, write in periodicals or publish books or periodicals.

7. Without prejudice to vows and particular constitutions, all Religious may use an induit granted by the local Ordinary to the diocese exempting from common law, such as the law of fasting and abstinence.

6. Mendicant Regulars in the strict sense may beg alms within their diocese with their Superior's permission; to beg outside their diocese they require the written permission of the local Ordinary of that diocese. Other Religious of pontifical law need a special induit from the Holy See; Religious of diocesan law need the permission of their own local Ordinary and that of the Ordinary in whose diocese they wish to beg.

7. Other privileges, especially those in regard to dispensing from vows, are granted to some Religious Orders. Such privileges should be used in such a way that no offence is given to other ecclesiastical authorities.

8. Regulars who are outside their house illegitimately do not share in the privilege of exemption.

THE RELIGIOUS STATE

CHAPTER XIV

TRANSFERENCE OF RELIGIOUS TO ANOTHER INSTITUTE
(cc. 132-636)

I. Transference from one religious Institute to another, even if a stricter one, or from one independent monastery to another, requires an Apostolic induit.

2. One who passes from his Institute to another (not if from one monastery to another of the same Order) must make a new novitate during which the original vow's persist, but his rights and special obligations are suspended; obedience by vow is due from him to the Superior and Master of novices. If he does not make profession in the Institute, he is bound to return to the former Institute unless his temporary vows have expired

3. One who has made profession of solemn vows or simple perpetual vows in an Institute and joins another w'ith similar vows, must, after the novitiate, omit temporary vow's and take solemn or perpetual simple vows, or failing that, return to the former Institute, but the Superior may test him further, not beyond a year.

4. Previous solemnity of vow's lapses w'hen a Religious, so transferring, takes simple vows in a religious Congregation, apart from Apostolic induit to the contrary.

CHAPTER XV

ABANDONMENT OF THE RELIGIOUS STATE
(cc. 637-645)

SECTION 1. Lawful Abandonment

i. A Religious who had taken temporary vows may freely abandon the religious state on the expiration of the term of his vows. The Institute can, for sufficient reasons, exclude a Religious from renewing temporary vows, or from making perpetual profession, not, however, in consequence of ill-health, unless before profession, it had been fraudulently concealed or dissembled. But a Religious professed of even simple vows who becomes insane, even incurably, may not be dismissed, and his Institute continues to have the obligations in his

regard which it had when he went insane (S.G. de Relig., Feb. 5, 1925).

2. An induit of exclaustration (remaining outside the cloister temporarily), and an induit of secularization (permanent exclusion from the religious Institute), can be granted only by the Apostolic See for papal Institutes, and also by the local Ordinary for diocesan Institutes. But when the Apostolic See had granted the former, the subject remains bound by the vows and the other obligations of his profession which are compatible with his state; he must cease to wear the religious dress, but enjoys the spiritual privileges of his Institute, and is subject to the local Ordinary in virtue of his vow of obedience. He is allowed what he needs for his support, but what he acquires belongs to the Institute.

3. When the Holy See has granted secularization of a professed Religious, he is entirely cut off from his Institute, he must put aside his religious dress, and is assimilated to a lay person in all that concerns Mass, and the use of the Sacraments. He is freed from the vows, without prejudice to the obligations annexed to major Orders, if he had received them, but is not obliged, so far merely as his religious profession imposes any obligation, to recite the canonical hours. If he was in Sacred Orders and had relinquished his proper diocese by taking perpetual vows, he may not exercise them until he has been accepted by a Bishop, who may subject him to a trial for three years, and if he wishes, for another three years, after which, if he is accepted, he becomes incardinated in the diocese of the said Bishop. If such Religious was in minor Orders only, he is reduced to the lay state.

4. If the secularized Religious is received back by his Institute with Apostolic induit, he must make a new novitiate and profession, and from the date of the latter his seniority is reckoned.

5. A Religious who quits his Institute cannot demand compensation for services rendered by him to it.

6. The case of a Religious who wishes to become a secular priest must be referred to the Sacred Congregation of Religious; the case of a secular seminarian who wishes to become a Religious must be referred to the Sacred Congregation of Seminaries, unless the transference is made immediately from one state to the other (S.G. Stud.; S.C. Relig., July 25, 1941, May 11, 1942).

7. A female Religious who had been received into an Institute without a dowry and quitted religious life is to receive what is necessary for her decent maintenance; if a dowry which she brought to the Institute is not sufficient for her decent maintenance, the Institute must make up the deficit at least for a certain period.

SECTION 2. Unlawful Abandonment

1. An apostate from a religious Institute is one who, being professed of perpetual vows, whether solemn or simple, unlawfully quits the religious house with the intention of not returning, or who, having even lawfully gone out of the house, does not return to it, intending to withdraw from religious obedience. This intention is presumed if return, being possible, is not made within a month from departure, or if the intention to return is not manifested to the Superior within that period.

2. A fugitive from religious life is one who, without permission, quits the religious house, but has the intention of returning.

3. Both apostate and fugitive are obliged to return at once to religious life and are not, during their absence, freed from vows.

4. Apostates from religious life are excommunicated by censure reserved to the major Superior if the Institute is exempt and clerical; if it is a lay Institute or not exempt, excommunication is reserved to the Ordinary of the place. Furthermore, the apostate is excluded from legitimate ecclesiastical acts, loses all privileges of his Institute, and if he returns, may be punished in other ways (c. 2385). A fugitive from religious life is deprived of any office that he had, incurs suspension reserved to his higher Superior if in Sacred Orders, and may be punished in other ways on his return (c. 2386).

CHAPTER XVI

DISMISSAL FROM RELIGIOUS LIFE
(cc. 646-653)

SECTION 1. Automatic Dismissal

Religious are *ipso facto* dismissed who have publicly apostatized from the faith, or who have eloped with a person of the opposite sex, or who have contracted or attempted to contract marriage, even civilly. The higher Superior with his Chapter or Council may make a declaration of the dismissal and must preserve the documentary evidence in the archives. But the declaration is not necessary (P.C.C.J., July 30, 1934)·

SECTION 2. Dismissal by Superiors

1. In the Case of Religious of Temporary Vows

(a) When the period of temporary vows has elapsed, a Religious can be excluded from the renewal of temporary vows, or from final and perpetual profession, for a sufficient reason, but not owing to illness, unless before profession it was fraudulently concealed or dissembled.

(b) During the periods of temporary vows, a subject may be dismissed for a grave reason. Absence of the religious spirit that causes scandal is a sufficient reason, if repeated admonition and penance have been fruitless. Judicial process of dismissal is not necessary, but the subject threatened with dismissal has a right to know the reasons for dismissal and must be given the liberty to reply, and even to appeal within ten days to the Holy See. Pending the decision, the subject remains a Religious.

(c) A Religious of temporary vows, being a member of either an Order or a Congregation of pontifical law, can be dismissed by the Superior General or Abbot of independent jurisdiction, but with the consent of the Chapter given by secret vote. In the case of nuns, the local Ordinary can dismiss a member of the Institute. If the monastery is subject to Regulars, the Regular Superior can dismiss the nun, but not until the Superioress with the Chapter has submitted a document guaranteeing the reasons for dismissal. In diocesan Congregations the Ordinary of the place where the convent is situated can dismiss a Religious, but not without the knowledge or against the reasonable dissent of the Moderator.

(d) A Religious of temporary vows, if dismissed by Superiors is *ipsofacto* released from vows, but if a cleric in Sacred Orders, he must observe their obligations; a cleric only in minor Orders, when dismissed, is reduced to the lay state.

2. In the Case of Religions of Perpetual Vows in a Non-exempt Clerical or a Lay Institute

(a) A Religious of perpetual vows in a non-exempt clerical Institute or lay Institute of men can be dismissed only after three offences and a twofold admonition with threat of dismissal if he has not amended his ways. In cases of diocesan Institutes, the matter must be referred to the local Ordinary. In the case of a papally approved Institute, the Superior General issues the sentence of dismissal which requires approval by the Apostolic See. The subject has the right to expose his defence. The offences referred to must be canonical offences *{delicta),* i.e. some external and morally imputable violation of law visited by canonical penalty (c. 2195).

(b) For the dismissal of a female Religious of perpetual vows,

whether solemn or simple, there are required grave external reasons and incorrigibility. She has the right to present her defence. If the Institute is diocesan, the case must be referred to the local Ordinary to decide on dismissal.

(r) In the case of nuns *(moniales),* the local Ordinary sends the dossier of the case to the Sacred Congregation for its decision, together with his own opinion and that of the Regular Superior if the monastery is subject to a Regular Superior.

(d) In the case of other religious women of pontifical law, the Mother General must send the dossier to the,Sacred Congregation for its decision.

(e) In a case of grave scandal or very serious imminent injur}' to the community, a guilty Religious can be dismissed from the religious house at once by the higher Superior with the approval of the Council and if time does not permit of the reference to the higher Superior, the local Superior may act with the consent of the Council and of the local Ordinary. The Religious must put off the religious habit, but final judgment is to be given by the Holy See. After such dismissal, the proper judicial process must at once be instituted, if not already begun (c. 668).

3. In the Case of Religions of Perpetual Vows in an Exempt Clerical Institute

(a) A Religious of an exempt clerical Institute professed of solemn or perpetual simple vows may not be dismissed without a judicial process, apart from automatic dismissal, or grave scandal, or imminent grave harm to the community.

(b) The sentence of dismissal must be given by the supreme authority in the Institute or monastic Congregation together with the Council or Chapter, the latter consisting of at least four Religious, and one of the Religious must also be nominated promoter of justice (c. *5θ9> §2).

(c) The judicial process must have been preceded by serious external delinquencies against general law or religious law, and by admonitions and failure to amend.

(d) The delinquencies must be three in number and of the same species, or if they are of different species, they must be such as to give evidence of a perverse and obstinate will of evil-doing, or one persisting delinquency which has become virtually threefold owing to repeated admonition given in vain.

(«) Admonitions must be two in number, one after each of the first two delinquencies, but if the delinquency is either repeated or continuous, three days must elapse between the first two admonitions. Each admonition must be accompanied with a threat of dismissal.

(f) The Superior must add to his admonitions suitable exhortations,

corrections, penances and other penal remedies, and must remove the guilty Religious from the occasions of relapse.

(g) The immediate higher Superior, after fruitless warnings and corrections, must send the dossier of the whole case to the supreme authority; the latter must pass it on to the promoter of justice. When the case has been decided against the culprit, sentence of dismissal is given, but it must be referred for its confirmation to the Sacred Congregation, which must be put into possession of all the facts and the details of the procedure.

SECTION 3. Juridical Status of a Dismissed Religious of Perpetual Vows (cc. 669-672)

1. A Religious professed of perpetual vows, if dismissed, is obliged to amend and return to religious life, unless he has been dispensed from his vows. If emendation is established for three successive years, the Institute is obliged to receive him back. If he was a cleric in minor Orders, he is reduced to the lay state.

2. A cleric in Sacred Orders who has publicly apostatized, or has eloped with a woman, or has attempted marriage, even a civil one, or who has been dismissed for a delinquency punishable by infamy of law, degradation, or deposition, is forbidden ever after to wear the ecclesiastical habit.

3. If, however, he was dismissed for delinquencies less than the aforesaid, he is suspended until absolved by the Holy See; he may be ordered by the Sacred Congregation to retain the clerical dress and reside in some determined diocese, whose Ordinary must be informed of the reasons of dismissal. Failing obedience, he is deprived of the right to wear clerical dress, and has no claim on the Institute. The Ordinary of the aforesaid diocese must send him to some house of penance, or entrust him to the care and vigilance of a pious and prudent priest. Failing obedience, he must be punished as stated above.

4. The Institute must supply him with the means of livelihood—unless he can provide for himself—of which he will be deprived if he leads an unbecoming life, will be expelled from the house of penance, and deprived of the right of wearing clerical dress.

5. If the aforesaid Religious has lived during a year in such manner that he can be regarded as truly amended, the Ordinary will seek absolution for him from suspension and, after absolving him, will permit him to say Mass in the diocese and exercise other functions of the sacred ministry, always with opportune safeguards and restrictions. The cases of deacon and subdeacon must be referred to the Holy See.

6. If a Religious in Sacred Orders is dismissed and no longer bound b\ his religious vows, he must seek some Bishop who will receive him, and must remain under his jurisdiction.

APPENDIX

SECULAR INSTITUTES OF CHRISTIAN PERFECTION

An Apostolic Constitution, *Provida Mater Ecclesia* (Feb. 2, 1947), lays down the rules which will apply to a new form of pious association of the faithful, to be styled Secular Institutes of Christian Perfection. These Institutes will have canonical status.

The members of these Institutes must efficaciously aim at Christian perfection, by those exercises of piety and self-abnegation which are customary in the case of those who aspire to that perfection, and also must adopt the following means:

1. They must make profession before God of celibacy and perfect chastity, confirmed by vow, oath, or consecration, binding in conscience, according to the Constitutions of the Institute.

2. They must vow or promise obedience, so as to dedicate themselves by permanent obligation to God, and the exercises of charity or the apostolate, subject in all matters to their Superior.

3. By a vow or promise of poverty, they must dispossess themselves of the free use of temporal goods, and use them only in a determined and limited way according to the Constitutions.

4. They must be united to their Institute by a bond that is permanent, or, if temporary, to be renewed after the fixed interval; this bond is to be entire and mutual as between members and Institute, and the latter must have the care of, and responsibility for, its members.

5. Though members do not adopt the common life or live in the same house, there must be one or more common residences for the needs or utility of members, in which the Superior must reside, to which members are to come for receiving or completing their training, spiritual exercises, and other purposes, where members can be received who, owing to ill-health or other reasons, cannot provide for themselves, or for whom it is not expedient that they should remain at home, or in the private homes of others.

The remaining sections of the Constitution deal with the establishment and government of the Institutes. The Secular Institutes were commended and confirmed by Pope Pius XII, *Motu Proprio,* March 12, 1948. Additional instructions were given by the Sacred Congregation of Religious, March 19, 1948. The documents will be found in Bouscaren, *Canon Law Digest,* 1948, s.v. Secular Institutes.

TREATISE XI

CHAPTER I

GENERAL OBLIGATIONS

The free undertaking of some public civic office entails an obligation of justice to the State to fulfil the duties of the office substantially and faithfully. Public officials do not enter into any contract with private citizens; it is law which imposes on them the obligation of acting rightly towards the citizen.

No one may undertake a public office if he is not fit for it, except to exclude one who is less fit. If one is appointed to a public office and is unfit for it, he should, if possible, make himself fit; if he cannot do so, he is bound to represent the case to the proper authority for its decision. If he is told to do his best, he may take remuneration for his work.

Citizens must respect the claims which the State has over those whom it employs for the common good. It is dishonest to derive as much profit as possible from the State, and do practically nothing in return, for the State is not, as is too readily supposed, some unreal, abstract personality; it is rather the aggregation of the citizens, and its true good is the common good of the citizens.

CHAPTER II

DUTIES OF JUDGES

I. A judge is a public official lawfully appointed by the State to administer the existing law in order to settle disputes between litigants, and to impose the legal punishment for offences against the law. A judge must be guided by evidence and the right interpretation of the law, and when law is silent, by equity or natural justice. His interpretation of obscure law and his application of certain law are of great weight in future decisions.

2. A judge must have lawful jurisdiction, possess sufficient knowledge of the law, insist on correct legal procedure, listen to the evidence, direct the jury when one is employed, and pronounce judgment.

3. If a judge acts unjustly with knowledge of the injustice, he is bound to make reparation of the harm done that was foreseen and in fact ensued. Such injustice is now rare, but it is common in times of revolution.

4. If a judge with full knowledge and deliberation wrongly pronounces sentence of acquittal in a case when a legal fine should have been imposed, he is probably not obliged to make any restitution, for his offence was not against commutative justice, since the State has no right to a fine until it has been imposed. But if he knowingly and deliberately acquitted wrongly a culprit from repairing unjust damage done to another he would be obliged to make restitution.

5. A judge is obliged to give judgment in accordance with the law. He may, but is not obliged to, impose the maximum penalty. He may not give judgment in accordance with an unjust or immoral law. Thus a judge may not oblige a confessor to reveal confessional secrets; he may not grant a decree of absolute divorce from a valid marriage, though he may grant divorce so far as civil effects are concerned. He may impose a light fine, if legally incurred, though the law happens to be unjust, when there is no scandal and with the presumed reasonable consent of the accused, for so small a penalty should be willingly undergone if a judge is practically obliged to administer the law as it is.

6. When evidence is not conclusive, the defendant in a criminal case may not be condemned. In a civil action, a judge is obliged to favour that party whose right is the more probable. If there is equal probability on the part of both defendant and plaintiff, possession of the disputed right usually favours the possessor; but when no one is in actual possession of the right, a judge may suggest a compromise, or settle the case in favour of either party.

7. A judge is bound to acquit a defendant whose guilt is not established by the evidence. If he knows a defendant to be innocent, whereas the evidence appears to be against him, the judge must use all diligence to establish the innocence of the defendant, but if the jury bring in a verdict of guilty, he will not certainly be acting wrongly if he give sentence against the defendant, unless the penalty was severe, such as death or a long imprisonment.

8. A judge cannot demand payment for giving a just sentence; if he did so and took payment, he would be obliged to restore it. If, however, he demanded payment for giving an unjust sentence, he would have sinned, and before giving sentence would have to restore what he demanded and received. But if he had fulfilled his part of so dishonest a contract, it is not certain that he would have to restore what he received.

9. The action of a judge who rates a woman for asking for judicial

separation rather than divorce from a guilty husband, on the plea that she ought to give her husband his liberty, is scandalous, for it puts a premium on a husband's infidelity.

10. If a sentence is known to the defendant to be unjust, and if appeal endorses the judgment, or if appeal is impossible, public peace usually requires obedience and submission to injustice.

Note on Jurymen

The duties of arbitrators and jurymen are similar to those of judges. If a juryman knows for certain that a defendant is innocent, though the evidence appears to convict him, he has not the same liberty of expressing his opinion as the judge. Since he knows that the defendant is innocent, the evidence must be unconvincing. If he knew of the guilt of the defendant, but the evidence was not sufficient for conviction, he may certainly give his vote in favour of the defendant.

APPENDIX i

PAPAL ALLOCUTION TO CATHOLIC JURISTS IN ROME, NOV. 6, 1949

The following points in the papal Allocution to Catholic jurists are of great importance for the guidance of Catholic judges.

1. In the case of every sentence, the principle is valid, namely, that the judge cannot simply repudiate his own responsibility for his own decision, and refer it entirely to the law and its authors. The judge who by his decision applies it to a particular case is the joint cause of the effects and jointly responsible for them.

2. A judge can never by his decision oblige anyone to commit an act that is intrinsically immoral, that is, one which of its nature is contrary to the law of God or of the Church.

3. He cannot in any case expressly recognize or approve of an unjust law, which, in any event could never constitute the basis of a judgment valid in conscience and before God. Therefore he cannot pronounce a penal sentence which would be equivalent to such an approval. His responsibility would be still graver if his sentence occasioned public scandal.

4. But not every application of an unjust law is equivalent to its recognition and approval. In this case, the judge may—and perhaps sometimes must—let an unjust law take its course, when it is the only means of preventing a much greater evil. He may inflict a penalty

for the violation of an unjust law, if the penalty is of such a nature that he who is subjected to it is reasonably disposed to submit to it in order to avoid that harm, or to secure a benefit of much higher importance, and if the judge knows, or can prudently presume, that the punishment will be willingly accepted by the transgressor from higher motives. In times of persecution, priests and laymen have often allowed themselves, without offering resistance, to be condemned even by Catholic magistrates to fines, or deprivation of their liberty for the violation of unjust laws, when thereby it was possible to preserve for the people an upright magistracy, and to avert from the Church and the faithful much more dreadful calamities.

5. Naturally the graver the consequences of a judicial sentence, the more important and general must be the good to be preserved, or the harm to be averted. There are, however, cases in which the idea of a compensation by the attainment of a higher good, or the preventing of greater evils, can have no application, as in a death sentence.

6. In particular, the Catholic judge cannot, except for reasons of great moment, pronounce a decree of civil divorce (where divorce exists) from a marriage that is valid before God and the Church. He may not forget that such a decree is in practice not restricted merely to civil effects, but, in fact, rather conduces to make people think erroneously that the actual bond has been severed, and that the new one is valid and obligatory.

DUTIES OF PLAINTIFFS, DEFENDANTS AND WITNESSES

1. Prosecution may not be undertaken when a greater evil would ensue than that which it is wished to avoid.

2. The defendant may always deny charges against himself, since it is admitted by all that he need not incriminate himself.

3. A defendant may, in legitimate self-defence, reveal the hidden crimes of any of the witnesses who give testimony against him, if his revelation simply tends to show the untrustworthy character of their evidence, but calumny is never permitted.

4. A justly condemned culprit may attempt escape, for he is probably obliged only to refrain from active resistance to the carrying out of a just sentence. He may break out of prison, if he can do so, without doing injustice or bodily harm to the gaolers. Others, not State officials,

may help him to escape. It is sinful to bribe gaolers to allow a culprit, justly condemned, to escape.

5. If a person is unjustly condemned, he may attempt to escape and may resist recapture, with a reasonable amount of violence as an act of legitimate self-defence.

6. One is obliged to give evidence in Court if justly commanded to do so, or when by so doing, serious harm can be prevented either to the State, or to an innocent party, or to one who has been wronged. The obligation must be measured both by the gravity of the issue and personal inconvenience. There is no obligation to give evidence for the punishment of a past crime if it is not producing present harm.

7. There is no clear obligation to reveal the name of a real culprit when an innocent party is unjustly condemned without any fault of the culprit; but if the latter is the cause of an innocent person's condemnation, there is an obligation of charity towards the innocent to reveal the real culprit.

8. A witness is bound to tell the truth when giving evidence. He is not, however, bound to incriminate himself, nor to reveal confessional secrets, nor professional secrets. The giving of false evidence, in addition to being a sin of perjury, entails the duty of reparation in accordance with the principles of restitution.

CHAPTER IV

DUTIES OF BARRISTERS

I. The first duty of a barrister is to know his brief and understand the law. His relations with the client who pays him for his services is one of justice based on contract. In criminal cases, he may defend one whom he knows to be guilty but must do so by lawful means. He may not, under any circumstances, employ methods that are untruthful or unjust, such as falsification of documents, suborning false witnesses, attacking fundamental truths, as by maintaining that a man is not free under the impulse of every passionate tendency.

2. A barrister may undertake the defence of civil actions unlikely to be successful, but not if they are unjust. If the case of his client is weak, he may, of course, employ all the arts of the pleader, justly and truthfully.

3. In this country a barrister may petition for the judicial separation of husband and wife, if the reasons are just. He may also petition for nullity of marriage if the marriage is really null. He may petition for

divorce of his client, merely that the latter may obtain the civil effects of legal divorce. All such matrimonial causes between the baptized, or where only one party is baptized, are within the sole jurisdiction of the Church excepting merely civil effects, so that the greatest care must be taken that no reasonable scandal arises. But both Catholics and non-Catholics in this country and all judges and barristers know the Catholic teaching on divorce.

CHAPTER V

DUTIES OF DOCTORS AND SURGEONS

I. The first duty of a doctor or surgeon is to know the facts of the case with which he intends to deal. Great latitude must, of course, be allowed in such vast sciences as those of medicine and surgery, and consequently a good deal of diagnosis must be tentative and provisional. In dealing with cases, both doctor and surgeon must employ ordinary skill and care, but they cannot be expected to have the exquisite know'ledge of the specialist if they are not specialists.

2. When a safer remedy as opposed to one that is not so safe is available, it must be applied. It is not permissible to carry out experiments on the sick when their effect is not known, but in an extreme case, when nothing better can be done, any treatment likely to succeed may be employed with the consent of the patient, express or virtual.

3. Although there are some operations, such as craniotomy, evacuation of the pregnant womb, eugenic sterilization, which are not permitted at all, and which doctors must refrain from doing, the latter may call in the services of another doctor at the request of the patient; they must inform the patient that they cannot deal with the case.

4. It is an obligation of charity to warn a patient or his relatives of impending death, so that all preparations for both spiritual and temporal issues may be made. The medical attendant should try his best to baptize a child likely to die in the womb or immediately after birth.

5. A doctor's visits may not be repeated beyond reasonable limits. They may, of course, be useless medically but very valuable psychologically, in which case they may be continued and charged for. Charges for medical attendance vary according to the social condition of the patients. If a doctor charges the poor less than would ensure him a decent livelih as is usually the case, he may charge the well-to-do what would maintain him in his position, regard being had to

his own social condition, the outlay on his education, the purchase of books and instruments. Under the National Health Service Act charges are fixed; they may not be exceeded.

6. In time of plague, a doctor would rarely be obliged in charity to undertake a case at the risk of his life. He is under some obligation to give his services free, or with meagre remuneration, to the poor, but in the present system of State Insurance and easy access to free hospitals and dispensaries, a doctor's obligations to the poor are not grave, unless in an extreme case. In cases of accident, a doctor has urgent obligations in charity, which doctors honourably fulfil.

APPENDIX 2

A HOSPITAL CODE

(issued with ecclesiastical authority)

A. Birth Control

In no circumstances may artificial or unnatural methods of prevention of conception be advised. Thus it is forbidden to recommend the use of mechanical or chemical contraceptive devices to men or women, or to advise such a method of contraception as *coitus interruptus*.

B. Sterility—Examination of the male

In no circumstances may any morally wrong method of obtaining a specimen of the seminal fluid be used or advised. Thus it is forbidden to advise masturbation or the use of a condom in order to obtain a specimen for any purpose whatsoever.

C. It is never permissible directly to kill a fetus or embryo.

Operations involving the intentional and direct destruction of fetal life are therefore forbidden. Among these are:

1. Dilatation of the *os uteri* during pregnancy and before the fetus is viable.
2. Introduction of sounds, bougies, or any other substances within the *os uteri* during pregnancy and before the fetus is viable.
3. Direct induction of labour by any means whatsoever before the fetus is viable. Neither *Eclampsia* nor *Hyperemesis Gravidarum* constitute an exception to this rule.
4. Curettage of the uterus during pregnancy.
5. Craniotomy of the living child.
6. X-ray therapy and radiotherapy, in the absence of their

immediate and indispensable need for the preservation of maternal life as a treatment of the mother's organism alone, are forbidden before delivery in all cases of actual or questionable pregnancy.

The fetus may be considered viable after twenty-eight weeks. If the fetus is known positively to be dead, operations for emptying the uterus may be performed.

Where a pregnant mother dies before delivery, an effort must be made in all cases to deliver the child, and if it is in danger of death to ensure its baptism. Indeed, all products of conception (fetus or embryo) are to be baptized at least conditionally.

D. Sterilization or mutilation

All operations involving the sterilization or mutilation of men or women are forbidden, except where such are indicated as a necessary operation for the removal or cure of diseased structures.

This includes such operations as:

1. Removal of undiseased ovaries. In all cases of removal of diseased ovaries in women of child-bearing age a portion of one ovary, if healthy, should be left, where practicable.

2. Removal of an undiseased Fallopian tube directly. In this connection it is to be noted that where a rupture occurs or threatens to occur in tubal pregnancy, endangering the mother's life, the affected part of the tube (or the whole tube, if the whole tube is seriously affected and its excision is necessary) may be removed, although it contains an embryo or fetus, and the embryo must be baptized.

3. Section of an undiseased Fallopian tube, and operations which result in obstructing the *lumina of* undiseased Fallopian tubes.

4. Hysterectomy in women of child-bearing age where alternative treatment that leaves the woman capable of child-bearing is possible.

5. Anterior fixations or ventrofixations in women of child-bearing

6. The sterilization and castration of male patients, except when performed for the removal or cure of diseased structures.

E. Dying patients

A priest should be sent for at once in the event of any Catholic patient appearing to be in imminent danger of death, either through severe illness or injuries, and pending the arrival of a priest, treatment should be directed to ensure that the patient, while being relieved of avoidable suffering, should be maintained in such a condition as to be able to take a conscious part in the reception of the Last Sacraments.

F. Euthanasia

In no circumstances may treatment be given to patients with the primary purpose or result of relieving their suffering by ending or shortening their lives.

APPENDIX 3

ECCLESIASTICAL BURIAL
(cc. 1203-1242)

SECTION 1. General Principles

1. The bodies of the faithful are to be buried; cremation is forbidden because it is contrary to long-standing Christian tradition, and is calculated to disturb the faith in the resurrection of the body. But when cremation is necessary in order to avoid plague, as in time of war, the Church does not oppose it, though it condemns the general practice (S.O., June 19, 1926). Even amputated limbs must be buried, if possible, in consecrated ground (S.O., Aug. 3, 1897).

2. Catholics are not permitted to carry out the terms of a Will which orders cremation. Where civil law enjoins cremation, the customary prayers may be recited over the corpse, but it is forbidden to go to the place of cremation, nor may the ashes be buried in consecrated ground.

3. Ecclesiastical burial consists in bringing the body to the church, holding the funeral service there, and burying the body in the place legitimately destined for the burial of the faithful.

SECTION 2. The Cemetery

1. The bodies of the faithful must be buried in a blessed cemetery and with the proper rites, solemn or simple. Bodies are not to be buried in the church with the exceptions of those of residential Bishops, Abbots or Prelates *nullius,* royal persons, Cardinals, and the Supreme Pontiff. No corpse may be buried beneath the altar; if they are buried near the altar, the grave must be at least one metre distant from it, otherwise Mass may not be celebrated at that altar until the corpse has been removed (c. 1202).

2. When a church or parish cannot have its own cemetery, the municipal cemetery, if used, must be blessed if the greater number of burials is that of Catholics, or Catholics must have a blessed part of the cemetery allotted to them; failing that each grave must be blessed on the occasion of a burial.

3. Each parish should have its own cemetery unless one common to several parishes is legitimately established by the local Ordinary. Exempt Religious may have their own particular cemetery. Other corporate bodies may be allowed by the Ordinary to have their own sepulchres, blessed as cemeteries. The bodies of little children should also, as far as possible, be buried in ground distinct from that of the burial ground of adults.

4. Those who wish to have private burial places in the parish cemetery must have the written permission of the local Ordinary.

5. The graves of priests and other clerics should be distinct, if possible, from those of lay people, and have a more becoming site, and in separate plots of the cemetery. A distinction should be made between the burial grounds of priests and of clerics of lesser dignity.

6. When a Catholic must be buried in the cemetery of the Established Church, legal notice must be given to the vicar twenty-four hours before burial. The grave is blessed by the officiating priest.

7. Every cemetery must be enclosed and carefully tended. In the selection of epitaphs, inscriptions and ornamentations, nothing should be allowed which has even the appearance of being incompatible with Catholic religion and piety. Consequently flamboyant tombs, and pagan or secular inscriptions, are to be condemned as savouring, the one of pride of ancestry or social conditions, the other of lack of Christian hope.

8. In a wholly Catholic cemetery, those who were denied Christian burial must be'allotted a part quite separate from that of the others.

SECTION 3. Delay in Burying

A not inconsiderable time should elapse before a corpse is buried, especially in the case of sudden death. Life sometimes persists for some time after cessation of both heart-beat and circulation of the blood. As there is no certain sign of death in the case of a lingering illness except putrefaction, a priest summoned a considerable time after an apparent death may give the benefit of the doubt and absolve and anoint conditionally.

SECTION 4. Funeral Service in Church

1. Before burial, the corpse of one to be given ecclesiastical burial must, apart from serious reasons to the contrary, be taken to the church where the funeral service is to be held. If, as often happens, the corpse will not be conveyed to the church, a short funeral service may be held at the house of the deceased.

2. The church in question is by common law the church which was

the parish church of the deceased, unless before death some other church was chosen by the individual concerned. If the deceased belonged to several parishes at the hour of death, the proper church for the obsequies is the church of the parish of the place of death.

3. If the death of a person took place outside his actual parish, if the deceased belonged to several parishes, and the corpse can be conveyed conveniently to the nearest proper parish church by journey on foot, it is the right of the parish priest of that church to have the body conveyed to his church and hold the obsequies there, after having notified the parish priest of the place of death.

SECTION 5. Choice of Burial Place

1. Everyone is allowed, unless forbidden by law (children under the age of puberty, and professed Religious, not being a Bishop or Cardinal) to select the church of obsequies and cemetery for burial. A wife, and a child beyond puberty, may make the choice independently of husband or parents respectively.

2. The church chosen for obsequies must be either a parish church, or a church of Regulars (not a church of nuns with exception in favour of secular inmates), or a church subject to the right of patronage for the patron, or other churches which have obtained the right by special concession from the Ordinary or the Holy See or by custom or prescription.

3. Religious and secular clerics are forbidden to induce a person to vow or promise that the obsequies shall take place in their churches, or burial in their cemeteries, or to change a choice once made. Such vow or promise or change is null and void.

4. A member of a family that has a family vault must be buried therein if no other place was chosen, provided that the body can conveniently be conveyed thither without prejudice to the choice by family or heirs. If there are several family vaults, the family or heirs of the deceased decide. A wife is to be buried in the grave of her husband; if she had several husbands, in the grave of her last one, unless she had chosen another place.

SECTION 6. Duties and Rights of Parish Priests

I. The parish priest of a deceased Catholic has the right and duty, unless excused by a grave reason, to receive the corpse, personally or by proxy, to accompany the corpse to the parish church and there to hold the obsequies, unless the deceased chose another church or had several parishes, as already stated. This rule applies even when death took place in another parish.

2. If the church of the obsequies is one belonging to Regulars, or otherwise exempt from the jurisdiction of the parish priest, the latter receives the body and accompanies it to the church, preceded by a cross-bearer. The Rector of the church performs the obsequies. If, however, the church of obsequies is not exempt, the performing of the obsequies —apart from privilege—belongs to the parish priest in whose territory the church is situated if the deceased had been a parishioner of the said church immediately before death.

3. If a female Religious or a novice die in the religious house, the body must be borne to the threshold of the enclosure by members of the Institute, and from there taken by the chaplain to the proper church or oratory' of the religious house, the obsequies being performed by the chaplain in the case of exempt Religious; in the case of Religious not exempt, the proper parish priest acts.

4. If a corpse is sent to a place where the deceased had not a proper parish, and no church had been chosen for obsequies, these are held in the local cathedral, or failing that, in the parish church of the district in which the cemetery is situated, unless contrary custom or diocesan statutes determine otherwise.

SECTION 7. Burial

1. When the obsequies have been finished in the church, the body must be buried according to the approved rites in the cemetery of the church, allowing for the exceptions aforesaid. The celebrant of the obsequies or his delegate has the right and duty of accompanying the body to the cemetery, unless excused for a grave reason. Custom, however, allows the cemetery chaplain to perform the burial rites, in which case the body is usually not accompanied to the cemetery by the priest who celebrated the obsequies, who, however, may obtain the chaplain's permission to conduct the burial.

2. The parish priest may not, without a sufficient reason approved by the Ordinary, exclude from the funeral secular clergy, religious, members of pious sodalities, whom the family or heirs of the deceased have invited to attend. The clergy of the church of the obsequies should be invited before all others. This prescription is unusual in this country', owing to the manifold occupations of the clergy.

3. No members of a society obviously hostile to the faith may be allowed to assist at the funeral, nor their emblems tolerated. Masonic emblems, communist or socialist banners, should be ruthlessly excluded.

4. Clerics may never act as pall bearers of a deceased lay person. Priests in soutane and surplice may carry the coffin of a deceased Bishop or priest.

SECTION 8. Funeral Due#

1. The amount of the funeral offering is to be determined by the local Ordinary after consultation with the cathedral Chapter and, if he wishes, the deans of the diocese and parish priests of the episcopal city.

2. The family or the heirs of the deceased have the right to determine what kind of funeral shall be given to the deceased.

3. It is strictly forbidden to exact more than the fixed diocesan charge. The poor must be buried *gratis* and becomingly with the accustomed obsequies in accordance with the liturgical laws and diocesan statutes. In funeral services, if Mass is celebrated, it should always, except in the case of the poor, be sung; the growing practice of having a Low Mass, even when the funeral takes place with some external pomp, is reprobated (S.R.C., May 1, 1942).

The parish pries cannot be expected to celebrate a Requiem Mass for each of his deceased parishioners, but he does well to announce the celebration of a Requiem Mass at certain intervals for all the dead of the parish.

4. The funeral dues must be paid to the proper parish priest of the deceased even when the burial has taken place outside the proper parish church, apart from particular law, and unless the body could not have been conveniently conveyed to the proper parish church; if there were several parish priests of the deceased, the amount must be divided between them.

5. After the burial, the celebrant must record in the register the name and age of the deceased, the names of the parents or consort, the date of the death, who administered the Sacraments to the deceased before death and what they were, the place and date of burial.

SECTION 9. Denial of Ecclesiastical Burial
(cc. 1240-1242)

The following persons may not be given ecclesiastical burial:

1. Those who died unbaptized unless they were catechumens who died unbaptized through no fault of their own.

2. The following, unless before death they gave signs of repentance:

(a) Notorious apostates from the Christian faith; those notoriously aggregated to a heretical, schismatic, or masonic sect, or to other associations of a similar kind.

(ή) Those excommunicated or interdicted by sentence, condemnatory or declaratory.

(r) Deliberate suicides.

(</) Those killed in duels or in consequence of wounds received in one.

(/) Those who ordered their corpse to be cremated.

(/) Other public and manifest sinners.

3. If, in any of the aforesaid cases, a doubt arises as to the lawfulness of the ecclesiastical burial, the Ordinary must be consulted, if time permits; if the doubt persists, the corpse may be given ecclesiastical burial but scandal must be precluded.

SECTION 10. Cremation—Penalties

To promote or assist at the practice of cremation is, as a general rule, impious and scandalous, and therefore gravely unlawful (S.O., June 19, 1926). If by a last Will or an expressed wish a deceased person has issued instructions that his corpse should be cremated, the wish must be disregarded. One who wished his corpse to be cremated may not be given Christian burial even if, in fact, the corpse was not cremated (P.C.C.J., Nov. 10, 1925). Those who dare to order ecclesiastical burial for such a person incur excommunication not reserved; those who spontaneously give Christian burial to such a one are interdicted from entrance into a church, a penalty the remission of which is reserved to the Ordinary (c. 2339).

Note on the Disposai of Amputated Bodily Member·

The Church prescribes (c. 1203, § 1) that the corpses of the faithful should be buried. The law refers to entire corpses. As to the burial of amputated bodily members, the Holy Office, in reply to a question sent by the Superioress of a Congregation of Sisters in North America (Aug. 6, 1897) stated that the amputated bodily members of Catholics should, if possible, be buried in blessed ground. It added that a portion of the hospital garden should be blessed and set aside for these burials. If the hospital authorities insisted on the cremation of these members, the Sisters were advised that they might remain silent, and carry out the orders. But evidently the mind of the Sacred Congregation was that such members ought not to be cremated, but should be decently buried.

TREATISE XII

THE SACRAMENTS IN GENERAL

CHAPTER I

NUMBER, RITE, MATTER, FORM, INTENTION

1. A sacrament is an outward sign of inward grace, ordained by Jesus Christ, by which grace is given to our souls. There are seven Sacraments, namely, Baptism, Confirmation, Holy Eucharist, Penance, Extreme Unction, Holy Orders, Matrimony.

2. The sacramental rite is the external rite consisting of matter and form and the person of the minister applying the rite with the appropriate intention, bestowing on the recipient sacramental grace if all necessary conditions are fulfilled.

3. In general, the remote matter is the matter employed in the external rite, as water in Baptism; the proximate matter is the application of the remote matter, as the infusion of the water in Baptism.

4. The form is the set of words (in marriage, the words or their equivalent) employed by the minister to confer a Sacrament, or, in the Holy Eucharist to produce the Sacrament.

5. The intention of conferring, or, in the Holy Eucharist, of producing, the Sacrament, is the intention on the part of the minister of doing what the Church does.

6. The valid conferring of a Sacrament depends on the use of the correct matter and form without a substantial change in either, the right intention of the minister, the sacramental action on the recipient by one and the same minister (and on one other than the minister), the union of matter and form in such a way that the form determines the matter to be the precise matter of the rite. As to the union of matter and form in marriage, the twofold consent may be given as in other contracts, provided they are morally united, so that it is not necessary that they should succeed one another immediately. In the Holy Eucharist, the matter must be physically present to the minister whilst the form is being pronounced.

7. To employ incorrect, or even doubtfully valid, matter when correct matter could be employed is grievously sinful. But in cases of urgent necessity, when correct and certain matter cannot be got, doubtfully valid matter which most nearly approaches correct matter may be employed, but in the Holy Eucharist doubtfully valid matter may never be employed owing to the danger of material idolatry.

δ. In both conferring and receiving Sacraments, it is not always possible to act on certainties.

(a) In conferring a Sacrament, the minister may never act on probabilities when he could act on certainties, nor on lesser probabilities when he could act on greater.

(b) In receiving a Sacrament of the living, that is, one which demands a state of grace in the recipient, as the Holy Eucharist, the recipient must be in the state of grace. If he thinks that he is probably in that state, he would do well to make certain of it by making an act of contrition, or by going to confession, but he is not certainly obliged to do so. Nevertheless if his doubt as to the state of grace is serious, it appears best to hold that he must secure the state of grace.

CHAPTER II

DIFFERENCES IN THE SACRAMENTS

1. A sacrament may be necessary for salvation, as Baptism, or matter of precept only, as Confirmation, or neither necessary nor prescribed, as Marriage and Orders.

2. Three Sacraments impress an indelible seal or spiritual character, viz. Baptism by water, Confirmation, and Sacred Orders.

3. Baptism and Penance are called Sacraments of the dead, that is, they raise a person from spiritual death to spiritual life by their institution and nature. But Penance can increase grace, as when it is received by one who is not in mortal sin. The other Sacraments are called Sacraments of the living (i.e. of those already in the state of grace), because they normally presuppose the recipient of them to be in the state of grace.

4. A Sacrament worthily received gives grace; if unworthily received it gives no grace. But some Sacraments can be received validly though unworthily, as Confirmation, Sacred Orders, Marriage, Extreme Unction, Baptism. When the recipient becomes duly disposed, the grace of these Sacraments is bestowed. This is termed the reviviscence of sacramental grace.

CHAPTER III

REPETITION OF A SACRAMENT

1. The Sacraments of Baptism, Confirmation, Holy Orders, if received validly, cannot be received again by the same person.

2. If a recipient's dispositions in receiving a Sacrament were prudently thought to have been insufficient for valid reception, the Sacrament must be conferred again (at least conditionally), if repetition is demanded by either charity or justice.

3. If a doubt, not clearly unfounded, arises as to the validity of reception, the following rules apply:

(a) If the Sacrament is necessary for salvation, it must be repeated, at least conditionally.

(ó) If the common good requires moral certitude as to valid reception, as in Sacred Orders, in default of such certitude, the Sacrament must be repeated conditionally.

(r) In doubt as to the valid consecration of the matter of the Holy Eucharist, valid consecration must be secured; so, too, in doubt as to the validity of the form. The consecration must then be conditionally repeated.

(</) In doubt as to valid Extreme Unction or sacramental absolution, these Sacraments must be repeated at least conditionally.

CHAPTER IV

THE MINISTER OF THE SACRAMENT

SECTION 1. Valid Administration

I. The minister of the valid administration, conferring, or production, of a Sacrament is one who is empowered by ecclesiastical law to act as such. Nevertheless though he act validly, he might sometimes be acting illicitly, in so far as the Church lays down conditions to be fulfilled for licit action.

2. The legitimate minister of a Sacrament can act validly though in the state of mortal sin and without faith, provided that he intends to do what the Church does in the sacramental action. An actual intention is

to be preferred, but a virtual one suffices; an habitual intention is insufficient.

3. When the minister annexes conditions to his intention, the validity of the Sacrament wall depend on certain elements:

(a) If the condition regarded the past or the present, the Sacrament would be valid if the condition was verified, not otherwise.

(α) If the condition regarded a future suspensive contingency, the Sacrament would be invalid, except in the case of marriage which, like other contracts, would begin to be valid when the future contingency was verified, if it were not contrary to the essence of marriage.

(c) It is gravely sinful to try to confer a Sacrament (except marriage) under a suspensive condition, or any Sacrament under a condition that is wholly occult, or one that cannot be known. A serious reason is required for the annexing of any, even a permissible, condition.

SECTION 2. Licit Administration

1. If a minister renders a Sacrament invalid he acts illicitly.

2. The minister must, under a grave obligation, be in a state of grace when he confers a Sacrament (as Baptism), or produces the Sacrament of the Holy Eucharist, provided that he is a minister ordained and deputed by the Church for those purposes and acts solemnly. He acts solemnly when he acts as only an ordained minister can act (as in absolving from sin), or when he employs all ceremonies (as in baptizing solemnly).

3. The minister must employ all prescribed ceremonies when he can do so, and act without voluntary and unreasonable distraction.

4. He must have faculty to act, be free from irregularities and censures, except that he may act licitly, though he is under censure, in a case of urgency on behalf of one in danger of death (c. 883), or when the faithful have a right to ask him for a Sacrament (c. 2261, §2).

Conclusions

Grave sin is probably not committed if a lay person in mortal sin baptizes in necessity, or if one party to a marriage, being in mortal sin, administers the Sacrament of Marriage to the other, though grave sin would be committed by the former in receiving the Sacrament; grave sin is probably not committed if a priest or deacon baptizes privately, or administers Holy Communion (for this is not to confer a Sacrament) or ministers at High Mass, or bestows blessings.

SECTION 3. The Obligation of Conferring the Sacraments

I. Those who, by reason of their office, have to confer Sacraments are bound by justice and charity to do so in the case of their subjects,

when these reasonably ask, and to confer the necessary Sacraments at the risk of life, if the subject is in grave need and there is a certain expectation of succeeding.

The necessary Sacraments are Baptism, Penance in case of grave sin, and also if a dying conscious person cannot confess apparently, though the smallest indication of confession or sorrow is sufficient; Extreme Unction is also a necessary Sacrament if the dying person cannot confess as when he is unconscious, and is in mortal sin.

2. It is gravely sinful for the minister of the Sacraments habitually to refuse to confer them on his subjects when they ask for them with just reasons, or to refuse to do so to their grave spiritual loss, or to give them few opportunities to receive the Sacraments, or deliberately and seriously to delay to attend to the sick of his parish.

3. Those priests who are not officially obliged to administer the Sacraments are seriously obliged by charity to administer them to those in extreme need of them, that is, the Sacraments necessary for salvation if there is certain expectation of succeeding; they are also bound, but not under grave personal inconvenience, to administer the Sacraments to those in only grave need.

SECTION *4*. The Obligation of Refusing to Confer the Sacraments

A Sacrament may not be given

1. To one who cannot receive it validly, or at least probably validly.
2. To a notorious sinner and generally known to be still unrepentant.
3. To an occult sinner, that is, one who is known to the minister alone to be unworthy, if he asks for the Sacrament privately, and provided that the case is not known from confession; but if such a one asks for a Sacrament publicly, it cannot be refused, for he retains his right to his good name.

SECTION 5. Pretence in Administering a Sacrament

1. Positive pretence in giving a Sacrament by employing matter and form, whilst withholding intention, is a sacrilege. Not even grave fear experienced by the minister would justify this (Pope Innocent XI, pr. d.29).

2. The pretence of conferring a Sacrament in order to deceive the would-be recipient and others present is dissimulation and may be adopted for a sufficient reason. The act has the appearance of a sacramental act, but in reality is not. Such dissimulation is not a sacrilege.

Illustrations

1. The mere blessing of an unworthy penitent is dissimulation; it is not sacrilegious and may sometimes be permissible.

2. The simulated consent to marriage is sometimes permissible; it is not sacrilegious.

CHAPTER V

THE SUBJECT OF THE SACRAMENTS
(cc. 731-732)

SECTION 1. Valid Reception

I. For the valid reception of a Sacrament, one who has the use of reason must have the intention of receiving it. This intention in extreme cases need probably be no more than an habitual implicit intention. Such intention would be present if an unconscious dying person had habitually wished to have all those means that are necessary for salvation, without ever having adverted to any particular means. This view enables a priest to give absolution and Extreme Unction to an unconscious dying heretic who is baptized.

Illustrations

1. An unconscious dying Catholic must be supposed to have wished during life to receive the Sacraments at the last moments. Such intention may be supposed to have persevered up to unconsciousness, and is an habitual explicit intention.

2. An unconscious dying non-Catholic who had repudiated the Church and the Sacraments all during life may be supposed to have had a general intention of being given the means of salvation. Such a one may be absolved, at least conditionally, when unconscious, and secretly whilst conscious. To secure the validity of the absolution, it is supposed that he is baptized and has some sorrow for sin.

3. Baptism by water is absolutely necessary for the valid reception of the other Sacraments.

4. Faith is not necessary for the valid reception of the Sacraments other than Penance, for this requires an act of supernatural sorrow, which is impossible without faith.

SUBJECT OF THE SACRAMENTS

SECTION 2. Licit Reception

1. For the licit reception of Baptism and Penance, in addition to what is required for valid reception, supernatural sorrow is required in one who has sinned. Attrition is sufficient.

2. For the licit reception of the other five Sacraments, the state of grace is necessary. This state can be acquired by an act of perfect contrition, or confession, but for licit reception of the Holy Eucharist, sacramental absolution of mortal sin is required, though when no confessor is available and there is necessity of communicating (or celebrating Mass), an act of perfect contrition is sufficient (cc. 807,856).

3. It is a grave sacrilege to receive Holy Communion in the state of conscious mortal sin, but when the Sacred Hosts must be saved from profanation, or when one must receive to preclude grave defamation of character, the conscious state of mortal sin does not prevent reception; nevertheless an attempt should be made to elicit a perfect act of contrition, which can be done in a moment.

4. Apart from necessity or some other grave reason, it would be sinful to ask for a Sacrament from a minister who is known to be in grave sin. If the minister is an excommunicate, or sentenced, or declared excommunicate, only sacramental absolution may be asked for in danger of death, and in the absence of other ministers who are worthy, it is permitted to ask for other Sacraments and the sacramentals (c. 2261, §3).

APPENDIX

THE SACRAMENTALS

1. Sacramentals are actions or things employed by the Church to obtain by its intercession spiritual and temporal benefits for the faithful.

2. The sacramentals consist of prayers, sprinkling with holy water, anointings, consumption of blessed food and liquids, the general confession at Mass, the divine office, almsgiving and other works of charity, and ritual blessing.

3. The effects of the sacramentals are supernatural, due to the prayers of the Church. They are calculated to produce the remission of sin, the bestowal of actual graces, the restraint of diabolical activities, the granting of temporal as well as of spiritual favours. The remission of sins is probably due to the holy movements of the soul. It is also probable that the sacramentals remit some part of the temporal punishment due to forgiven sins by exciting in the soul the fervour of the love of God.

TREATISE XIII

CHAPTER I

THE SACRAMENT. ITS NECESSITY AND EFFECTS

SECTION 1. The Sacrament

1. Baptism is the Sacrament of the New Law by virtue of which a human being is spiritually regenerated, that is, cleansed from original sin by the rite of ablution with water and the invocation of the three Divine Persons of the Blessed Trinity. It is the gate to, and foundation of, the other Sacraments, inasmuch as it is the entrance into the Mystical Body of Christ, aggregation to the Church, and it establishes the right to the Church's ministrations, chiefly through the Sacraments.

2. This Sacrament is Baptism by water. Two other sources of this spiritual regeneration are termed Baptism of desire, and Baptism of blood, namely, martyrdom.

3. Baptism by water is necessary for salvation if it can be received; if reception is not possible, the Baptism of desire or that of blood suffices and is necessary. In default of all three sources of grace, original sin remains and excludes from heaven. Only an adult is capable of the Baptism of desire; even an infant without the use of reason is regenerated by martyrdom.

4. If Baptism by water is received after the use of reason, the subject must elicit an act of sorrow for past actual sins, and have the intention of being baptized. If no sorrow for mortal sins is elicited the Baptism would be valid but unfruitful.

5. Solemn Baptism is Baptism administered with all the usual ceremonies; private Baptism is that administered with the essential ceremonies but with the omission of some non-essential ceremonies.

SECTION 2. Effects of Baptism

( ) The remission of original sin and of actual sins, and the remission of all punishment due to actual sins provided that an act of sorrow for them has been made.

( ) The bestowal of sanctifying grace and a title to actual graces.

(c) The infusion of the supernatural virtues and of the Grifts of the Holy Ghost.

(*h*) The imprinting of the character or spiritual seal.

(*e*) Aggregation to the body of the faithful and incorporation into the Mystical Body of Christ.

(*f*) Membership of the kingdom of Christ and a spiritual priesthood.

(g) Spiritual regeneration to divine sonship.

(A) Capacity to receive the other Sacraments, application of the merits of Christ, freedom from the power of the devil, the right to heaven and the beatific vision.

(i) The obligation of observing the law of Christ.

(j) If Baptism is received unfruitfully (as in the case of an adult who had no sorrow for past mortal sins), its specific grace is received when the said person elicits an act of sorrow (even attrition), and thereupon both the original and actual sins are forgiven.

Note.

Though Baptism extinguishes original sin concupiscence remains, namely, the tendency to an inordinate use of sensitive appetites, i.e. a use contrary to right reason and order.

CHAPTER II

THE MATTER AND FORM OF BAPTISM

(« 737)

SECTION 1. The Matter

1. The remote matter of Baptism, that is, the water, must be natural water, such as that from wells, fountains, rivers, and rain, or sea water. If other liquids are mixed with the water, the mixture is valid if water predominates, but is not licit.

2. For lawful administration in solemn Baptism, baptismal water must be used, namely, the water blessed on Holy Saturday, or on the eve of Pentecost. In private Baptism, baptismal water should be used if possible; failing that, natural water is used. In the Baptism of converts, holy water is used, if Baptism is conditional.

3. When, in a case of necessity, certainly valid matter cannot be had, the most probably valid matter must be used, and Baptism is then to be given conditionally; it must be repeated conditionally afterwards with certainly valid matter.

4. If the water in the font becomes low, unblessed common water may be added as often as necessary, but less in quantity than the baptismal water with which it is mixed. If the font water becomes foul, the font must be eipptied and purified and fresh water put into it and blessed with the appropriate formula. If the font water becomes frozen,

a portion of it may be put into a smaller quantity of hot water and melted. The same may be done if the font water is too cold.

5. Actual Baptism is administered by infusion, immersion, or sprinkling; the water must flow over the skin of the head, but the modes of infusion or immersion, or a combination of both or sprinkling, customary in the country, must be retained. In the triple infusion in the form ofcrosses, the water must flow over the crown and skin of the head. This can be done, if water is poured on the forehead and allowed to flow over the crown of the head, care being taken to separate the hair if it is thick. This water should not be allowed to flow back into the font water, but should fall into the empty section of the font which thus serves as a sacrarium. Where there is no font, the water used must be poured into the sacrarium, otherwise onto the earth, not down the sink.

6. Immersion or sprinkling is done three times and the form pronounced during the action. Careless ministers sprinkled only the clothing of the infant; this was an invalid Baptism. Ablution is valid if the subject is held under rain or tap water which is directed by the hand of the minister onto the head of the subject.

7. The water must be applied and the form pronounced by one and the same minister. But in extreme necessity Baptism may be given if one person pours the water and another pronounces the form (Lehm. II, 21, note, quoting Cajetan and Suarez). The latter gave the case of a dumb person pouring the water and a person bound in chains pronouncing the form. But Baptism must be repeated afterwards in the usual way conditionally.

8. No one can validly baptize himself. Pope Innocent III so stated in the case of the Jew who immersed himself in water and pronounced the form, but he added that if the Jew had died at once he would have been saved owing to his faith in the Sacrament, though not to the Sacrament itself. The case of St. Thecla was similar.

SECTION 2. The Form

1. In the Latin rite, the form prescribed is the Latin equivalent of "N.N. I baptize thee in the name of the Father and of the Son and of the Holy Ghost." But the form in any language would be valid, and in the case of those who do not know the Latin form, also licit.

2. The form should be pronounced whilst the water is being poured, or sprinkled, or the subject immersed, but if the ablution etc. took place immediately after the form was begun or immediately after the form was completed, the Baptism would have been valid (S.C.Sacr., Nov. 17, 1916).

3. Any substantial change in the form, or a protracted interval between the ablution, etc., and the pronouncing of the form, or

between the several words of the form, renders the Baptism invalid. In doubt as to the validity of the Baptism, the Sacrament should be repeated conditionally.

CHAPTER III

THE MINISTER OF BAPTISM
(cc. 738-744)

SECTION 1. The Ordinary Minister

The ordinary minister in solemn Baptism is a priest, and it is reserved to the parish priest of the domicile of the parents of the infant, or a priest delegated by him, or the Ordinary. But in necessity, or by agreement, or custom, any parish priest may baptize solemnly the subject of another parish. A parish priest may not lawfully baptize even one of his own subjects outside his own parish.

SECTION 2. The Extraordinary Minister

1. The extraordinary minister of solemn Baptism is a deacon with the permission of the local Ordinary or parish priest, which may be presumed in a case of necessity. The deacon then employs all the usual ceremonies, but he may not bless the salt or the water.

2. Anyone who has the use of reason and the necessary intention may baptize validly, and in a case of necessity lawfully also, if no legitimate minister is present. Even when a priest or deacon is present, a doctor or nurse should baptize an infant in the womb, or when it is being born, if it is in danger of death.

3. For administering Baptism, the order of preference is priest, deacon, subdeacon, man, woman, but a woman may take precedence of a man for the sake of decorum, or if she is more capable.

4. Neither the father nor the mother may baptize their offspring, except in its danger of death when no suitable person is present.

5. Nurses, doctors, and even children, should be taught how to baptize.

Note. Baptism by heretics

The Baptism administered in the sects of the Disciples of Christ, Presbyterians, Congregationalists, Baptists, Methodists, if the necessary matter and form have been employed, is not to be presumed invalid for want of the minister's requisite intention of doing what the Church does, or what Christ instituted, unless the contrary is proved in a particular case (S.O. Dec. 28, 1949). The degree was issued relatively to marriages.

BAPTISM

CHAPTER IV

THE SUBJECT OF BAPTISM
(cc. 745-754)

SECTION 1. Normal Cases

Every human being and only a human being, still alive on earth, is a fit subject for Baptism. An adult, that is, one having the use of reason, may be baptized only if he or she wishes. When the use of reason is intermittent, if Baptism had been wished for during a lucid interval, or before the loss of reason, it may be given.

SECTION 2. Abnormal Cases

1. No human being may be baptized in the womb so long as there is a probable expectation of giving Baptism after birth.

2. If the head only of an infant has emerged during birth, and there is danger of death of the infant before complete birth, Baptism must be given on the head. No subsequent Baptism is then necessary or lawful.

3. If a bodily member other than the head has emerged and if there is danger of death of the infant, the part that has emerged must be baptized conditionally, and after complete birth, if it takes place, Baptism must be repeated conditionally.

4. If a fetus or infant has been baptized in the womb, it must be baptized again conditionally after complete birth, or partial birth as in nn. 2, 3; but Baptism in the womb should not be given, supposing the child is viable, without rupturing the two membranes, the chorion and the amnion, because the former belongs to the mother. The syringe must be sterilized and sterile water used. Bichloride of mercury is used to prevent infection, in the proportion of one part to a thousand parts of water.

5. Every aborted fetus, whenever ejected, if alive, must be baptized absolutely; in doubt as to life, conditionally.

6. All human monsters must be baptized at least conditionally; in doubt as to whether the product of conception is one human being, or more than one, one of them must be baptized absolutely, the other(s) conditionally. In baptizing a monster, the formula used is, "If thou art human, I baptize thee, etc."

7. A viable infant should if possible, be removed from the womb of its dead mother and baptized.

8. If an ejected fetus is enclosed in a membrane, this should be ruptured with finger and thumb, the waters allowed to flow out, and the whole mass dipped into warm water and baptized conditionally, or warm water may be poured on to the fetus and conditional Baptism given.

9. A viable infant may sometimes be delivered by Caesarean section, but the operation may not be done without permission of the mother, who is never obliged to allow it if dangerous.

10. If a mother dies with a viable infant in the womb, the section should be performed, if possible, that the child may be baptized, due regard being paid to law and hospital practice.

11. If fetus or infant has died in the womb and was not baptized, it should be buried in unconsecrated ground.

SECTION 3. Baptism of Exposed Infants

Exposed infants left to die, must when found be baptized conditionally, unless it is certain that they have been baptized. A slip of paper tied to the infant testifying to its Baptism would not be a sufficient proof of Baptism (S.O., Jan. 5, 1724).

SECTION 4. Baptism of the Children of Non-Catholics

1. It is lawful to baptize a child of infidel parents, even against their will, when the child is in danger of death, if it is prudently thought that it will die before the age of reason. But this should not be done \vith the risk of arousing hatred of the faith (P.F., April 17, 1777).

2. The same procedure is lawful if the parents are heretics or schismatics.

3. Children may not be baptized, whether they are children of heretics, or of a mixed marriage, or of lapsed Catholics, if there is not sufficient guarantee that they will be brought up as Catholics, unless of course they are in danger of death. A guarantee given by one parent might be sufficient (P.F., April 17, 1777).

SECTION 5. Baptism of Converts

1. Children before the use of reason whose parents are converted are baptized privately but with all the ceremonies, but if they have reached the age of reason, they may be baptized without the usual ceremonies if the local Ordinary approve.

2. Adults who wish to be converted may not be baptized and received into the Church without their knowledge, free consent, and after due instruction. Local Ordinaries reserve to themselves the permission

to receive such converts, so that unless a priest has delegated general or particular faculty, the absolution from censures would be invalid.

3. Intending converts, if baptized conditionally, must make a complete confession of all past mortal sins in accordance with the rules of their domicile, as in England and Wales. This confession is not, of course, necessary if the Baptism is absolute, but before being baptized they must make an act ofsorrow for past mortal sins ; if they did not, and if they had committed mortal sins, the Baptism would be valid but would not have remitted cither original or actual sins. Adult converts baptized conditionally are baptized with holy water and without the unessential ceremonies. Two witnesses must be present, one of whom may be the godparent. If they are baptized absolutely, they are baptized with baptismal water and with all the ceremonies used in adult Baptism, unless the local Ordinary allows the ceremonies of infant Baptism. The intending convert replies to the usual questions, the godparent lays the right hand on the shoulder of the baptized during Baptism. The Church recommends an adult convert and the minister to observe the natural fast before the Baptism, unless a grave reason prevents this. The convert should receive Holy Communion on the day of Baptism or shortly after; the salt taken in Baptism does not violate the eucharistie fast.

SECTION 6. Baptism of Dying Adults

1. If an unbaptized dying non-Catholic wishes to be baptized into the Catholic Church, he should be urged to renounce his errors and wish to become a member of the Church. If he does so he should then, so far as time permits, be instructed in the truths of God's existence, of divine rewards and punishments, of the mysteries of the Incarnation and the Blessed Trinity, the effects of Baptism and the necessity ofsorrow for sin. If death is imminent, it suffices if he manifests in some way his assent to the mysteries of the faith, a desire for Baptism, sorrow for sin, and a wish to fulfil all that the Church prescribes. But if there remains time for further instruction which it is possible to give, he should be instructed in the chief articles of the faith, the Sacraments of Baptism, Confirmation, Penance, Holy Eucharist, Extreme Unction, and divine institution of the Church.

2. If a dying unbaptized non-Catholic adult loses consciousness before any sacred ministrations are given, he may be baptized conditionally, absolved conditionally and given Extreme Unction and the last blessing.

3. If a dying non-Catholic adult, being fully conscious, does not wish to accept the ministration of a priest, he should be urged to make an act of perfect love of God. If he is known to be baptized, he may be

given absolution secretly; if nothing is known about his Baptism, the absolution should be conditional.

SECTION 7. Baptimn of Mental Patients

1. Those who are violent lunatics, if bereft of reason from birth or adult age, may be baptized as infants. If they had the use of reason and are now in a state of violent lunacy, they may be baptized conditionally. It they have lucid intervals, and therein expressed a wish to be baptized, they may be baptized absolutely even whilst in the state of lunacy.

2. Those patients who are lethargic or delirious may be baptized only during a lucid interval if they wish to be baptized, and must make an act of sorrow, but in imminent danger of death they should be baptized conditionally.

CHAPTER V

THE CEREMONIES AND RITES OF BAPTISM
(cc. 755-761)

SECTION I. Solemn Baptism

1. Baptism is solemn when conferred with all the ritual ceremonies. The use of saliva in touching the nostrils and ears must be omitted when there is danger of contracting or spreading disease, and may be omitted on grounds of uncleanliness (S.R.C., Jan. 14, 1944).

2. When in danger of death Baptism is conferred by a lay person, only the essential rite is performed, that is, ablution and form. If it were conferred by priest or deacon, the ceremonies which usually follow Baptism and those only must be observed if time permits. The ceremonies which precede Baptism must be supplied afterwards in the church.

3. A child not actually in danger of death but who cannot be taken to the church without some danger to its life, may be baptized solemnly at its home with permission of the local Ordinary (S.C. de Sacr., July 4, 1925). By request, the sons and grandsons of ruling families may be baptized at their homes.

4. Ceremonies which were performed in a first Baptism may, but need not, be repeated in a subsequent conditional Baptism.

SECTION 2. The Rite

i. Children must be baptized according to the rite of their parents. If a child was baptized by a minister of a rite different from the rite of

its parents and even at their request, the child belongs to the rite in which it should have been baptized (P.G.C.J., Oct. 16, 1919).

2. If one parent belongs to the Latin rite, the other parent to an Oriental rite, the child must be baptized in the rite of the father, unless some other provision is made by law. If only one parent is Catholic, the child must be baptized in that parent's rite.

SECTION 3. Baptismal Name

The name of a Saint must be given in Baptism. If the parents insist on some other name, as the name of a pagan deity (Juno), or hercsiarch (Luther), or even a flower (Daisy), the minister should add the name of a Saint and insert both names in the register. If a child is to have several names, they are all mentioned in the first question, and may be mentioned at actual Baptism, but only the first name need be mentioned during the rest of the ceremony.

CHAPTER VI

SPONSORS

(cc. 762-769)

SECTION I. Actual Sponsorship

1. No one may be baptized solemnly without at least one godparent, if possible. When there are two godparents (there may not be more), they must be godfather and godmother. In private Baptism there should be at least one godparent, if possible; in supplying the ceremonies there should be at least one godparent if there was none in the preceding Baptism, but in this case no spiritual relationship arises.

2. In a supplementary conditional Baptism, the godparent of the first Baptism, if one was present, should, if possible, act as sponsor, but apart from that case no godparent is necessary.

SECTION 2. Valid and Lawful Sponsorship

I. For a valid sponsorship the godparent must have been baptized, enjoy the use of reason, intend to act as sponsor, may not belong to any heretical or schismatical sect, nor be excommunicated by sentence or declaration, or be infamous in law, or excluded from ecclesiastical acts, or be a deposed or degraded cleric. Furthermore neither parent nor the consort of the baptized may act as sponsor. The sponsor must have been

assigned by either the person to be baptized, or that person's parents or guardian, and in default of any of these, by the minister of Baptism.

2. The sponsors must either personally or by proxy hold or touch the person being baptized, or raise or receive him from the font, or from the hands of the baptizer.

3. For lawful sponsorship the sponsor must have reached the age of fourteen years, unless the minister has a good reason for admitting a sponsor under that age, and must be free from excommunication for notorious delinquency, must not be infamous in fact. Furthermore he must know the rudiments of the faith, may not be a novice or a professed in any religious Institute, except in urgent need and then with the express permission of at least the local Superior, nor may he be one in Sacred Orders, unless he has the express permission of his Ordinary.

4. Sponsorship by proxy is permitted, but the custom of the minister or parents appointing a sponsor as proxy of an absent sponsor was reprobated. If, however, the absent sponsor knew of the custom and intended to conform to it, he contracted the spiritual relationship (S.C. de Sacr., Nov. 25, 1925).

SECTION 3. Sponsor and Godchild

1. A godparent contracts spiritual relationship with his or her godchild in Baptism. This relationship is a diriment impediment to marriage between them, but would not be so, if a godparent acted only during the ceremonies supplied after a private Baptism.

2. The sponsor must have a continual spiritual care of the godchild, and in all matters that concern Christian upbringing, must take diligent care that the godchild proves to be such during life as the godparent guaranteed on the solemn occasion of Baptism. This duty is grave, but binds only in default of the parents of the baptized.

CHAPTER VII

TIME AND PLACE OF BAPTISM
(cc. 770-776)

SECTION 1. Time of Baptism

i. Infants must be baptized as soon as possible after birth. Apart from diocesan statutes, custom approves of the Baptism of infants within a week or ten days after birth. In case of necessity, private Baptism may be given at any time and in any place.

2. Solemn Baptism may be administered on any day, but adult Baptism is fittingly administered in accordance with ancient usage on the eve of either Easter or Pentecost, especially in metropolitan and cathedral churches.

SECTION 2. The Place of Baptism and the Font

1. The proper place for administering solemn Baptism is the baptistery' of a church or public oratory'. The font should normally consist of a marble or other non-porous stone basin, divided into two compartments, one for the baptismal water, the other for waste. The font should be covered with a closely fitting lid.

2. Every' parochial church should have its font. The exclusive right of baptizing belongs to the parochial church, without prejudice to the cumulative right of other churches already' enjoying that right. Cumulative right is the right which the faithful have to be baptized either at such font, or at their parish church (P.C.C.J., Nov. 12, 1922). If the cumulative right is exercised, the proper parish priest must be notified.

3. The local Ordinary may permit, and even order, a font to be set up in a church other than the parish church or in a public oratory within the parish for the convenience of the faithful.

4. If an infant cannot, without grave inconvenience or danger, be taken to the parish church or another church having the right of a font, solemn Baptism may and should be given by the parish priest in a nearby church or public oratory within the limits of the parish, even if such church has not the right of a font.

5. Solemn Baptism may not be given in a private house except as follows but in the chapel, if there is one, and failing that, in a fitting place with baptismal water:

(a) If Baptism is given to the sons or grandsons of actual supreme rulers, or the presumptive successors of these, and at their request.

(è) If the local Ordinary gives permission in some extraordinary case. But the Sacred Congregation of the Sacraments (May 3, 1926) deplored the tendency in some places of laicising, as it were, the ceremonies of the Church, and wished that cases should not be multiplied but rather diminished, as far as possible, of Baptisms, Marriages and other sacred functions being performed in private houses.

CHAPTER VIII

RECORD AND PROOF OF BAPTISM
(cc. 777-779)

i. The parish priest must without delay carefully enter in the baptismal register the names of the baptized, the minister, parents, and godparents, the place and date of Baptism. If a priest other than the parish priest baptizes, he signs the register and the parish priest countersigns it.

2. In registering the Baptisms of illegitimate children, the name of the mother must be entered, if either she is publicly known to be the mother, or spontaneously asks it to be entered by a request made in writing or before two witnesses. The name of the father is also to be entered, if he so requests the parish priest in writing or before two witnesses or if he is known to be the father from some public authentic document. In other cases, the name of the child is entered as the child of unknown father or unknown parents. In all cases, the entry is to be so made as to preclude all occasion of defamation of the parents, and when the parish priest cannot preclude that, recourse must be made to the Sacred Congregation of the Council (P.C.C.J., July 14, 1922). In the case of an illegitimate child who is adopted, the surname of the mother, not that of the adoptive parents, must be entered.

3. When a child of a civil marriage is baptized, after the word *conjugum* in the register, the words *coram lege civili* must be added in the registers of England and Wales *(Instruction of the Hierarchy of England and Wales,* 1910).

4. When a child is baptized outside the domicile of its parents, the record must be entered in the register of both the place of Baptism and of the parish of domicile (S.C. de Sacr., Jan. 31, 1927). If Baptism was given outside the parish of origin, it must be registered in the baptismal register of the church of Baptism and also in that of the church of origin.

5. The testimony of one reliable witness is sufficient proof of Baptism, if the interests of a third party are not prejudiced; sufficient proof is also given by the testimony under oath of the person baptized, if he (she) received Baptism in adult age.

TREATISE XIV

CHAPTER I

THE SACRAMENT, ITS EFFECTS, MATTER AND FORM
(cc. 780, 781)

SECTION 1. The Sacrament and Its Effects

1. Confirmation is a Sacrament of the New Law by which the grace of the Holy Spirit is bestowed on the confirmed by the anointing with chrism, the imposition of hands and the set form of words.

2. The effects of this Sacrament are an increase of sanctifying grace, bestowal of the gifts of the Holy Ghost, the sacramental grace to enable the recipient to believe firmly and profess the faith courageously against all enemies and temptations of the world and the devil, the imparting of the spiritual seal by which the confirmed are enrolled as spiritual soldiers under Christ, King and Leader.

SECTION 2. The Matter and the Form

1. The remote matter of this Sacrament is chrism, composed of olive oil and balsam, blessed for Confirmation by a Bishop. This blessing is generally held to be essential. It is a matter of grave precept to use the chrism blessed on the preceding Holy Thursday, but in case of necessity the old chrism may be used. Chrism may not be got from heretical or schismatic Bishops (S.C. de Sacr., May 20, 1934).

2. The proximate matter of this Sacrament is the anointing with chrism of the forehead of the recipient by the right hand of the minister, which is placed on the head of the recipient whilst the right thumb anoints the forehead with the sign of the cross. An instrument may not be used for the anointing: the use of a finger instead of the thumb is illicit without good reason. The first extension of the minister's hands over those to be confirmed is not essential. The tap on the cheek is prescribed but not essential.

3. The form in the Latin Church is: *"Signo te signo crucis et confirmo le chrismate salutis in nomine Patris et Filii et Spiritus Sancti."*

4. A Saint's name is usually taken in Confirmation, who is chosen as patron and protector.

THE MINISTER OF CONFIRMATION

CHAPTER II

THE MINISTER OF CONFIRMATION
(cc. 782-785)

SECTION 1. Tlie Ordinary and the Extraordinary Ministers

i. The ordinary minister of this Sacrament is a Bishop. The extraordinary minister is a priest to whom the power of confirming is granted by either general law or particular Apostolic induit. By general law, the power to confirm any of the faithful anywhere is given to Cardinals, Abbots and Prelates of independent jurisdiction, Vicars and Prefects Apostolic, within their respective territories.

2. A priest of the Latin rite who has the power of confirming can confirm only the faithful of his own rite, unless an induit gives him ampler powers. A priest of the Oriental rite who has power to confirm at once after Baptism may not confirm those who belong to the Latin rite, though the Confirmation would appear to be valid.

3. A Bishop can lawfully confirm in his own diocese his own subjects and persons who do not belong to it, unless he is expressly forbidden to confirm the latter by their own Ordinaries. But outside his own diocese and in that of another Bishop, he needs the permission, at least reasonably presumed, of the Ordinary of that other diocese, unless he confirms his own subjects and does so privately and without using crozier or mitre.

4. A priest who has an Apostolic induit may confirm within his own designated territory, even those who do not belong to it, unless in the latter case, their Ordinaries have expressly forbidden him to do so.

SECTION 2. Confirmation by a Priest

A decree on Confirmation by a priest was issued by the Sacred Congregation of the Sacraments (Sept. 14, 1946) and commanded by His Holiness to be published. Its terms are as follow:

i. If Confirmation cannot be given at all or not without grave inconvenience by the local Ordinary, or some other Bishop (even titular) in communion with the Holy See, the following priests may administer it to those of the faithful who are in danger of death from illness and likely to die, viz, the parish priest having his own proper territory, the parochial vicar (c.471), having actual care of souls, the administrator of a vacant parish (c.473), priests who have complete care

of souls exclusively and permanently in a fixed territory with a definite church, and with the rights and duties of a parish priest.

2. The aforesaid may give Confirmation only to the faithful residing in their territories, including those not subject to parochial jurisdiction, even Religious, however exempt.

3. The conditions must be fulfilled under pain of nullity of the Sacrament, the penalty of suspension (c.2365), and deprivation of the faculty if the delegation is exceeded; moreover the canons and the rite of the Roman ritual must be observed.

4. The subject of Confirmation who has the use of reason must be in the state of grace, and instructed in the truths necessary to be known, and must be urged to wish to receive the Sacrament for the strengthening of the soul. If he recover, he must be taught the mysteries of the faith and the nature and effects of the Sacrament.

5. Record must be made of the Confirmation given in both Baptismal and Confirmation registers, the names of the confirmed, his parents, godparent, minister, date and place, and the words added: "Confirmation was given in virtue of Apostolic induit to one in urgent danger of death from sickness." Notification must be sent to the parish priest of the confirmed (if other than the minister), and to the diocesan Ordinary.

6. The minister must wear a surplice and stole, or at least a stole if the surplice cannot be got. He must instruct the attendants of the sick that only a Bishop is the ordinary minister of Confirmation, but that the said minister is delegated by the Holy See. He must be careful not to act in presence of heretics or schismatics, still less may he allow them to assist him.

Notes.

1. To all local Ordinaries dependent on the Sacred Congregation of the Propagation of the Faith, an induit is granted to the effect that they can give to all priests subject to them who have the care of souls, the faculty to give Confirmation to the faithful, whether adults or infants, who are in danger of death, within the missionary district, and also licitly within the place or residence of the Bishop, but only in his absence, or when there is a legitimate reason for his absence (S.C. de Sacr., Dec. 18, 1947).

2. Latin priests who have the power to confirm the faithful of their own rite can confirm the faithful of Oriental rites under their spiritual care (S.C. de Eccles. Orient., May 1, 1948).

3. Chaplains of Institutions exempt from parochial jurisdiction have not the faculty to confirm in danger of death, if they do not fulfil the conditions laid down in the decree of Sept. 14, 1946 (S.C. de Sacr Dec. 30, 1946, private).

4. From a private reply given by S.C. de Sacr., Jan. 2, 1947, it is to be inferred that military chaplains have not the power to confirm.

SECTION 3. The Duties of the Minister

1. A Bishop is obliged to administer this Sacrament to those of his subjects who legitimately and reasonably ask for it, especially on the occasion of his canonical visitation of the diocese. A priest who is empowered to confirm has an identical obligation in regard to those for whom he has the privilege.

2. An Ordinary who has not the power of confirming, or is legitimately prevented from doing so must, to the best of his ability, take measures that this Sacrament is administered to his subjects every five years. If this duty is neglected, the Metropolitan may report the matter to the Holy See.

CHAPTER III

THE SUBJECT OF CONFIRMATION
(cc. 786-789)

SECTION 1. Valid and Lawful Confirmation

1. For valid Confirmation an adult must have been baptized and have the intention of receiving the Sacrament. For lawful and fruitful Confirmation, the subject must be in the state of grace and sufficiently instructed. The state of grace is best acquired by confession, though this is not necessary; it may be acquired by an act of perfect contrition.

2. An Instruction of the Sacred Congregation of the Sacraments (May 20, 1934) states that the preliminary instructions should be given on the nature, dignity and effects of the Sacrament, and the dispositions requisite for its worthy reception. It would be desirable, the Instruction adds, that those who are to be confirmed should be fasting, in accordance with the ancient practice of the Church, and that candidates should present themselves in cleanly and modest attire.

SECTION 2. Reception of Confirmation

1. Confirmation is not a necessary means of salvation, but it may not be disregarded if opportunity offers of receiving it. The obligation of receiving this Sacrament is probably not a grave one, but parish priests are to see that their people receive it at an opportune time.

2. The administration of this Sacrament is fittingly deferred in the Latin Church until the subject has reached the age of about seven years, but it can and should be conferred before that age in danger of death, and outside that danger if the minister judges it to be expedient to confer it. The custom of conferring the Sacrament before the age of reason and even at once after Baptism obtains in some countries, but the mind of the Church is that, apart from danger of death and other grave reasons, it should be deferred until about the age of seven. It is also more opportune that children should be confirmed before their first Holy Communion, though the order may be reversed, if a child, arrived at the use of reason, has had no opportunity of being confirmed (S.C. de Sacr., June 30, 1932; May 20, 1934).

3. Those who are to be confirmed must be present during the first imposition of hands, nor may they depart before the conclusion of the ceremony. This prescription does not affect the validity of the Sacrament, provided that the subject actually receives the essential anointing by the Bishop.

CHAPTER IV

TIME AND PLACE OF CONFIRMATION
(cc. 790-792)

1. This Sacrament can be conferred at any time, but it is more fittingly given during Whit week.

2. The proper place for conferring the Sacrament is the parochial church; it may be given in any other suitable place for a just reason.

3. The local Ordinary has the right of conferring the Sacrament anywhere in the diocese, not excluding places which enjoy the privilege of exemption, such as the chapel of exempt Religious.

CHAPTER V

SPONSORS
(cc. 793-797)

1. In accordance with ancient custom a sponsor must be employed, if possible, during Confirmation. The sponsor should stand for one or two candidates, unless the minister approve otherwise for a just reason; each candidate should have only one sponsor.

2. For valid sponsorship, the sponsor must have been confirmed, have the use of reason and the intention of acting as sponsor, may not be aggregated to an heretical or schismatical sect, nor liable to the penalties mentioned in the case of a sponsor in Baptism, may not be the parent or consort of the confirmed, must have been assigned by the candidate or candidate's parents or guardian, or in default of these, by the minister or parish priest, must physically touch, personally or by proxy, the candidate whilst the latter is being actually confirmed. If the minister is sponsor, he must employ a proxy.

3. For lawful sponsorship, the sponsor must be other than the sponsor in Baptism, unless the minister judges otherwise for a just reason, or unless Confirmation is conferred at once after Baptism, must be of the same sex as the confirmed, unless the minister judges otherwise in particular cases for a just reason, and must fulfil all the prescriptions for lawful sponsorship in Baptism. The sponsor lays the uncovered right hand on the right shoulder of the candidate.

4. A spiritual relationship is established between sponsor and the confirmed. It is not, after May 19, 1918, an impediment to marriage between them. The sponsor undertakes to have a perpetual care of the confirmed, especially in regard to Christian education. All the effects of this spiritual relationship which resulted before the publication of the Code of Canon law persist, with the one exception that it does not constitute a diriment impediment to marriage between them (P.C.C.J., June 3, 1918).

CHAPTER VI

RECORD AND PROOF OF CONFIRMATION
(cc. 798-800)

1. The confirmation register is to be inscribed with the names of the minister and the confirmed, the date and place of Confirmation, the names of parents and godparents. The entry must also be made in the baptismal register.

2. If the proper parish priest of the confirmed had not been present at the Confirmation, the minister who confirmed must, personally, or through some one else, notify him as soon as possible.

3. When there is no prejudice to the rights and interests of another, the fact of Confirmation can be sufficiently established by one completely reliable witness, or the sworn statement of the confirmed person, unless the latter had been confirmed in infancy.

TREATISE XV

CHAPTER I

SACRIFICE AND SACRAMENT

I. The holy Eucharist is the true Body and Blood of Jesus Christ under the appearances of bread and wine. In the most Holy Eucharist, Christ Our Lord is contained under the appearances of bread and wine, offered in the Mass and received in Holy Communion.

2. It is a sacrifice inasmuch as the true Body and Blood of Christ are offered in Holy Mass to God for all mankind. It is a Sacrament inasmuch as it is an efficacious sign of grace, instituted by Christ to be the spiritual food of the soul. It is received as a Sacrament in Holy Communion, and it persists as a Sacrament as long as the consecrated species remain uncorrupted.

3. In this Sacrament, Jesus Christ is really, truly and substantially present, whole and entire under each species and every part of them, both before the species are divided into parts and after division. This Sacrament is the greatest of all the Sacraments because it contains the Author and Fount of all grace.

CHAPTER II

THE SACRIFICE OF THE MASS

I. The sacrifice of the Mass, that is, the sacrifice which is offered in the ceremony called the Mass, is the Eucharistic sacrifice. The essence of the sacrifice of the Mass consists in the twofold consecration. The offertory and communion of the Mass are not essential parts of the sacrifice, but they may not be omitted without grave sin.

2. Every Mass is offered by Christ Our Lord, the celebrant, the servers, those who assist at it, the Church, and all the faithful, being members of the Mystical Body of Christ.

3. The sacrifice of the Mass is a sacrifice of worship, thanksgiving, impétration, propitiation, and satisfaction.

4. It is never permitted to consecrate only one species, nor both species outside Mass.

5. If the celebrant of Mass discovers at any time during Mass that the matter is or was defective, he must remedy the defect. Thus if after the consecration of the chalice, he discovers that water only was in the chalice, even if he had consumed it, he must take wine, add a little water which he blessed, offer mentally, consecrate and consume.

The missal instructs him in such a contingency to take another host —the consecrated host being consumed—offer and consecrate it, then consecrate the chalice anew as stated above. But if Mass is being celebrated in a public place, and if there is likely to be scandal, the consecration of a new host may be omitted.

CHAPTER III

THE FRUITS AND EFFICACY OF THE MASS

SECTION 1. Tlie Absolute Fruits of the Mass

The absolute fruits of a Mass are those which result from every Mass in virtue of its being the sacrifice of Christ. These fruits are independent of the dispositions of the celebrant and of any others who offer it. They are as follows: a perfect act of supreme worship of God; a perfect act of thanksgiving for all divine benefits; impétration or prayer for all benefits conducive to salvation; propitiation to appease God's anger with sinners and to obtain the grace of repentance; satisfaction, inasmuch as the Mass remits the punishment due to forgiven sin in the measure of God's acceptance.

SECTION 2. The Relative Fruits of the Mass

The relative fruits of Mass are those personal benefits which are derived from a Mass. They are as follows:

1. A most special and particular fruit derived from the Mass by the priest who celebrates it.

2. The special fruit derived from it in virtue of the application of the Mass by the celebrant to some person or purpose.

3. The general fruit derived from a Mass by the server, those who assist at it, all the faithful, living and dead; these fruits are those of impétration, propitiation and satisfaction.

SECTION 3. The Efficacy of the Mass

1. Regarded as the sacrifice of Christ Himself the Mass has an infinite efficacy.

2. In so far as this efficacy is applied in the concrete to persons or purposes, the fruit of impétration is limitless, but the fruit of satisfaction for sins already forgiven is probably limited, since the Church applies Mass over and over again for the same persons and purposes. Some authors, however, think that the fruit of satisfaction is limitless, and in that view the second intention of a Mass, as it is called, is as efficacious as the first intention. Those who think this fruit is limited may offer Mass with a second intention for some person or purpose, on the condition that the whole efficacy' of the Mass has not been exhausted by the first intention or application.

CHAPTER IV

THE APPLICATION OF THE FRUITS OF THE MASS

1. A priest can apply the fruits of the Mass to himself, or to others, or to definite purposes, because he has received this power: "Receive the power of offering sacrifice for the living and the dead." The most special and the general fruits need no explicit application; it is the special fruit that is here dealt with.

2. That the special fruit may be applied, the celebrant must have the intention of applying it. Habitual intention is sufficient.

3. When the celebrant had formed two intentions in regard to the application of the one Mass, that intention prevails which was the more absolute and which would have prevailed had the facts been known. If the intentions were of equal importance, the later intention prevails, unless the priest, when forming the first intention, determined that no subsequent intention would displace it. In doubt as to which of two intentions prevails, a second Mass should be applied for the intention that remained unfulfilled.

4. The intention must be determinate and specific, though at the time of celebrating the celebrant need not necessarily remember, or even know it, as, for example, when he applies Mass in accordance with a predetermined order of his own or of another, or of the respective dates of the Mass offerings sent or given or assigned to him. It is permissible to apply a number of Masses to a number of persons or purposes collectively, when a priest is unable to remember the precise order of precedence in the obligations undertaken.

5. The application of Mass must be made at latest before the second consecration in the Mass.

6. If the celebrant had made no application at all, he himself and all the faithful derive their respective fruits from the Mass.

7. Acting in his official capacity, the priest may offer the essential fruits of a Mass (those *ex opere operato)* for either the living or the Souls in Purgatory; he may offer Mass privately only for the conversion of those excommunicated who are by name or law sundered from the communion of the faithful *(vitandi)*; he may offer Mass for other excommunicates privately only, except that if they are reigning princes or their equivalents he may offer Mass publicly for the good ruling and prosperity of the State. He may even offer Mass for the intentions of heretics or infidels if there is no scandal or superstition involved, but no special prayer may then be added (S.O.,July 12, 1865).

8. Mass may be offered for the Holy Souls in Purgatory, for they are helped by the prayers of the faithful and most of all by the acceptable sacrifice of the altar (C.T., *sess* XXV, *de Purgatorio).* We cannot say, however, that the whole fruit of satisfaction is infallibly applied to that soul for whom Mass is offered. So far as the mind of the Church in granting the plenary indulgence of a privileged altar is concerned and the use of the power of the keys, this indulgence is to be regarded as truly plenary, capable of delivering a soul at once from the pains of Purgatory, but so far as the actual effect is concerned, it must be regarded as measured by the acceptance of God in accordance with the divine mercy (S.C. de Indulg.,July 28, 1840).

9. The different fruits of a Mass, namely, those of impétration, propitiation, and satisfaction, can be applied to different persons and for different purposes. But when an offering has been made for a Mass, the entire special fruit must be applied according to the mind of the donor of the alms, for he has the right to determine how each of the fruits is to be applied. This does not, however, preclude a gratuitous second intention as explained above. When a Mass is offered for a particular intention in virtue of a promise or a vow of obedience, the fruits not included in such promise or vow may be applied to other intentions, persons and purposes.

CHAPTER V

THE CELEBRANT OF MASS
(cc. 802-813)

Priests alone have the power to offer the sacrifice of the Mass. In the Latin Church, concélébration of Mass by several priests is permitted only in Masses of ordination of priests and consecration of Bishops.

SECTION 1. Visitin" Priest

1. A priest who wishes to say Mass in a church to which he is not attached must show authentic commendatory letters, still valid, of his Ordinary if he is a secular priest, of his religious Superior if he is a Religious, of the Sacred Congregation for the Oriental Church if he is a priest of that rite. He is then allowed to say Mass, unless owing to some misconduct he ought to be forbidden.

2. As a favour, however, a priest without a *celebret*, as it is called, may be allowed to say Mass if the Rector of the church is assured of his worthiness; if he is not known, he may be allowed to say Mass once or twice, but he must wear the ecclesiastical dress, he may not under any pretext accept any remuneration from the church where he celebrates, and must inscribe his name, office and diocese in a special register. Additional rules may be laid down by a local Ordinary which bind even exempt Religious, except in regard to their fellow-Religious celebrating Mass in a church of their Institute.

3. A local Ordinary may forbid a priest who is on his vacation outside his diocese to say Mass if he does not fulfil the rules laid down by the Sacred Congregation of the Council (July 1, 1926). The chief of these are that the visiting priest may not put aside his clerical dress, must choose reputable places of abode, may not spend the day scandalously in attending theatres, revues, cinemas, or other shows, unbecoming to the dignity of the priesthood. Religious are not exempt from these rules.

SECTION 2. Frequency of Celebration

Every priest must, if possible, celebrate Mass several times each year, that is, at least three or four times. This obligation is most probably grave and one of divine law. But the canons urge Bishops and religious Superiors to employ their subject priests in fulfilling the sacred functions on every Sunday and the other holy days of obligation. If the needs of

the faithful demand it, a priest can be obliged under grave sin to celebrate Mass on those days and even oftencr.

SECTION 3. Bination

1. A priest may not celebrate Mass more than once a day except by sanction of law, or permission of his local Ordinary, or Apostolic induit, or necessity. Law permits every priest to say three Masses on both Christmas Day and the day of the Commemoration of All Souls. A priest who has Apostolic permission to say a Votive Mass, or the *Missa quotidiana defunctorum* daily, may say those Masses three times on Christmas Day and All Souls Day respectively (S.R.C., Jan. 26, 1920).

2. The local Ordinary can give permission to a priest to say two Masses on one day, if he prudently thinks it necessary owing to scarcity of priests, or if, on a Sunday or holy day of obligation, part of the people, that is, about twenty, would otherwise be unable to hear Mass. He may not give permission for the celebration of more than two Masses on the same day, except with papal approval (S.C. de Sacr., April 22, 1927; private).

3. The local Ordinary may not give permission to binate on any of the suppressed days of obligation except with the sanction of the Holy See.

4. Permission is not given to binate in private oratories except in the case of enclosed nuns.

5. A priest may binate in the urgent necessity of consecrating a host or hosts for Holy Viaticum.

6. Normally the faculty to binate is personal, but the local Ordinary may grant the privilege as a local one, in which case, a priest supplying for the parish priest, sick or absent, may binate. This is usually so understood.

SECTION 4. Disposition of Soul

A priest who is consciously in mortal sin may not celebrate Mass, however contrite he may think himself to be, without previous confession; but if there is no confessor available, and if there is an urgent necessity of saying Mass, he may celebrate after having made an act of perfect contrition. He is thereafter obliged to go to confession as soon as possible, that is, within three days if he can. This does not, however, mean that he could say Mass again before going to confession, unless under the aforesaid circumstances.

SECTION 5. Eucharistic Fast

A priest may not celebrate Mass unless he is fasting from the preceding midnight, which may be determined in accordance with any approved reckoning of time. Apostolic induit may be obtained for

liquid non-alcoholic nourishment before Mass or between Masses. The local Ordinary can grant a temporary concession until reference is made to the Holy See (S.O. March 22, 1923). If, after the first of two Masses of bination, the celebrant had consumed the ablutions, he has violated the eucharistie fast, and may not celebrate the second Mass, unless he has permission to take liquid nourishment before Mass or between the two Masses, or unless the people would take scandal from the omission, or if by the omission he would defame himself. A priest dispensed from the eucharistie fast before his second Mass of bination may take the ablutions at his first Mass (S.O., Nov. 16, 1923). In this case, both wine and water of the ablutions may be taken.

SECTION 6. Preparation and Thanksgiving

A priest who is al ut to celebrate Mass should prepare himself by pious prayers, and after Mass should make a fitting thanksgiving. After Mass the priest should preferably ask God for special and specific graces for himself and his people, recommending himself, other priests and his flock to God, praying for perseverance in his holy life, and for the conversion of sinners, adding fervent prayers for the Church, the Pope and the rulers of his country'.

SECTION 7. Dress

The celebrant of Mass must wear the suitable dress, which, in addition to the vestments which are prescribed, consists of a cassock reaching to the ankles. Its place may be taken by a coat extending below the knees.

The celebrant may not wear a skull cap nor a ring, unless he is a Cardinal or Bishop, or Abbot who has received the blessing, or without Apostolic induit. The wearing of a wig is not now forbidden as it was formerly.

SECTION 8. As-istant Priest

Apart from Bishops and other prelates who are entitled to the use of pontificals, a priest celebrating Mass may not have an assistant priest merely as a mark of honour or solemnity. Exception is made in favour of newly-ordained priests celebrating their first Mass, and of Canons who have a long-standing privilege. But in the former case, assistance is given for the sake of security and observance of the rubrics.

SECTION 9. Mass Server

Mass may not be celebrated without someone to serve and make the responses. But if a server is not available, Mass may be said for con-

secrating Viaticum, for paschal Holy Communion, for Mass on Sundays and other days of obligation if omission of Mass would cause scandal or consternation, for special graces which the priest feels in need of, for a stipend if the priest is poor, and for giving Holy Communion to the faithful. The server must be a male, but a female is tolerated foi* a just reason provided that she does not enter the sanctuary. If the server goes away, and another cannot be got, Mass may be concluded without a server. The lay server receives Holy Communion after clerics but before all other lay persons, with the exception of members of the Royal family or their equivalent, and the wedded parties at a nuptial Mass. The usage of lay servers not to wear cassock and surplice is permitted in this country.

Note on Mass Server

The Sacred Congregation of the Sacraments issued the following instruction on Mass servers (Oct. 1, 1949):

It is generally admitted that if a server is not available, Mass may be celebrated without one:

1. For the administration of Holy Viaticum.
2. That the people may hear Mass of obligation.
3. During time of plague, if a priest would have to abstain from saying Mass for a notable time.
4. If a server who began to serve Mass went away, even before the consecration or the offertory.
5. If a suitable server cannot be had, a person may be employed who can offer the cruets, move the missal, and ring the bell.
6. All authors teach that it is forbidden under grave sin to allow a woman, even a nun, to minister at the altar.

N.B. His Holiness, Pope Pius XII, ordered that a clause should be added to induits granting permission to say Mass without a server, namely, that some of the faithful should be present at the Mass.

CHAPTER VI

THE MATTER, FORM AND RITE OF THE HOLY EUCHARIST
(cc. 814-819)

SECTION 1. The Matter of the Holy Eucharist

i. The remote matter is wheaten bread and wine of the grape and these alone. The bread must be made of pure wheat and natural water, baked and unleavened in the Latin Church, leavened in the

Oriental Church. Bread made with a large admixture of oil, butter, milk, egg, is very doubtful matter and gravely unlawful.

2. Hosts which are to be consecrated must have been recently made. It is forbidden to consecrate hosts which are two months old (S.C. de Sacr. Dec. 7, 1918). Benediction hosts are renewed each week and ciboria are purified before the hosts are three weeks old, or a month at most from baking. But shorter periods would be necessary in hot or damp climates. Newly-consecrated hosts should not be mixed with consecrated hosts unless the whole lot can be given out at once in Holy Communion.

3. A celebrant of Mass must use his own rite in regard to leavened or unleavened bread, but he may, if necessary, use bread of another rite in order to complete the sacrifice but not, so it is commonly thought, for giving Viaticum.

4. Mass must be celebrated in accordance with the rubrics accurately and devoutly, and the proper liturgical language employed. No ceremonies or prayers at choice may be added.

5. In the Latin rite a large circular host is used for Mass, but a small one may be used if a large one cannot be got, or for a reasonable excuse, provided that there is no scandal. It would be sinful to consecrate broken or soiled hosts, gravely so if the host was very dirty. There is no obligation to stamp a cross or a figure or letters on hosts. Colouring matter may not be added to the flour.

6. It is grievously sinful to use sour wine for Mass, but in a case of necessity, if the wine is only a little sour, it may be used. It is grievously sinful to consecrate frozen wine, or wine not strained which contains foreign substances. It is permissible to filter wine through a sheet of gelatine to clear it of turbid matter (S.O., July 15, 1925 private).

7. A very small quantity of water must be added to the wine put into the chalice for consecration. If through inadvertence no water was added, some must be added before consecration of the wine but not after. The smallest drop of water, if perceptible, suffices. A quantity of water up to one quarter of the whole, that is, three parts wine and one part water, is probably the maximum for valid consecration. The celebrant should never consecrate if he thinks too much water has been added. He might add more wine, but had better take fresh wine, add a little water, which he blesses, and consecrate after mental offering, if this occurred after the offertory.

SECTION 2. The Form of the Holy Eucharist

i. The form of consecration of the bread is: *Hoc est enim Corpus Meum*: "For this is My Body." To omit the word *enim* is venially sinful. The form of consecration of the wine is: *Hic est enim calix Sanguinis Mei, Novi et Aeterni Testamenti, Mysterium Fidei, qui pro oobis et pro multis effundetur in*

remissionem peccatorum: "For this is the Chalice of My Blood, of the New and Eternal Testament, the Mystery of faith, which shall be shed for you and for many unto the remission of sins." The first six words contain the essential form, but if the words following were omitted, the whole form must be repeated conditionally.

2. The form used must not express a false sense of the operation, otherwise the consecration would be invalid, as, "Here is My Body". It is seriously sinful to add to, or change, the form even if the change does not affect the true sense. Since the priest is, in fact, consecrating bread and wine, he may not employ the words in a merely historical sense as though relating to past facts. In serious and not scrupulous doubt as to the correct use of the form, it should be repeated conditionally.

SECTION 3. Conditions of Consecration

1. For valid consecration, the matter to be consecrated must be physically present to the consecrator when he pronounces the words of consecration over it, but it is not necessary that he should actually see it. Matter that is far-removed from the celebrant cannot be consecrated. Hosts in a closed ciborium can be validly consecrated, but hosts behind the altar or the celebrant, or enclosed in the tabernacle, are not present and cannot be consecrated. Hosts beneath the corporal or the altar cloth or chalice or behind the missal are doubtfully present.

2. The matter to be consecrated must be the object of a definite intention on the part of the consecrator. Though he could consecrate all the hosts in a ciborium without knowing their number, he could not consecrate a precise number of them prescinding from the rest. If the celebrant is holding two hosts in his hands at the moment of consecration but thinks there is one only, he consecrates both, for he consecrates what he is holding.

If his permanent intention is to consecrate whatever suitable matter is on the corporal at the moment of consecration, then what is there is consecrated. If, however, he had intended to consecrate matter, but through inadvertence, it had remained off the corporal and was not noticed at the moment of consecration, such matter is considered to be doubtfully consecrated, unless he formulated the intention of consecrating all the matter that had to be consecrated even if it remained off, but near, the corporal during the consecration. Valid consecration in such cases, therefore, depends on the celebrant's intention. The intention of consecrating matter that inadvertently was not placed on the corporal, but remained near it during the consecration, is approved by some authors but condemned by others. It appears best to intend to consecrate whatever is on the corporal during the consecration, but the other procedure need not be ruled out.

3. The drops of wine, if any, which adhere to the outside of the chalice are not considered to have been consecrated. If drops, or a film, of wine adhere to the interior surface of the chalice, they must be regarded as not consecrated, since the priest wishes to consecrate the wine that is in the chalice as a concrete quantity. But the interior surface of the chalice above the wine is wiped before the chalice is offered.

4. The matter to be consecrated must rest on a consecrated altar or altar stone during consecration. If the stone is small, it is sufficient that a ciborium partly rests on, or touches, the corporal, if both chalice and ciborium cannot rest on the stone.

5. Hosts brought to be consecrated must be brought at latest before the first consecration, but grave reasons are required that they may be brought after the offertory, and very grave ones that they may be brought after the beginning of the Canon of the Mass and before the first consecration. If a ciborium was not consecrated together with the Mass host, it is almost universally held that it may not be consecrated after the Mass host has been consecrated. This opinion is so strong that we believe that under no circumstances may a ciborium be consecrated immediately after the consecration of the Mass host and still less after the consecration of the chalice, for in both cases, a new sacrifice would have been begun and not completed.

Note on the Treatment of Fragmenta

1. Fragments of the Mass host found on the corporal after the priest has consumed his host and the consecrated wine must be consumed before the ablution, but if they were first detected after the ablutions, they should be consumed immediately. If fragments are discovered after the priest has returned to the sacristy before unvesting, they must be consumed, the paten cleansed and the purification poured down the sacrarium. If the fragments were discovered after the priest had unvested, he should place them in the tabernacle, or leave them to be consumed by another priest who will celebrate on that day. If neither procedure is possible, the priest himself must consume them. If the fragments discovered belong to a sacrifice other than his own, the priest may do as already stated, but if a complete consecrated host is found, he would require a very grave reason for consuming it rather than placing it in the tabernacle, or conveying it to a church where he could place it in the tabernacle.

2. If a ciborium must be purified, the celebrant may purify it even after he has taken the ablutions.

3. If the host found by the celebrant is dirty or in process of corruption, he should consume it before the first ablution, if he can do so; otherwise he should put it in a clean vessel in some decent place,

pour water or wine into the vessel, and light a lamp to burn before it. When it is corrupted, the contents of the vessel must be poured into the sacrarium. If the said host is doubtfully consecrated, he should do as stated above.

CHAPTER VII

THE PRESENCE OF CHRIST UNDER THE CONSECRATED SPECIES

1. The divine presence persists under the sacred species so long as they remain the species of uncorrupted bread or wine.

2. It is not possible to determine exactly how long the divine presence persists with a communicant after reception of Holy Communion. It is a safe view to take that it persists in the normal communicant for about one quarter of an hour. The time is probably longer than that in the case of sick persons, but the Church has not disapproved of the practice of the faithful in regarding thanksgiving for a quarter of an hour as sufficient.

3. When a sick person, soon after having communicated, rejects the sacred species and objects to receiving it again, which may well be the case, if the species appears entire, it should be removed and taken in a clean cloth or vessel, and placed in some decent place, in a vessel with water or wine, but not in the tabernacle, until it has corrupted; a lamp should burn before it; the corrupted species must be poured down the sacrarium. If the rejected host is not discernible, the whole rejected mass should be collected with cotton wool or a cloth, burned and the ashes cast into the sacrarium.

4. Spitting immediately after Holy Communion must be avoided, although if the Sacred Host had been completely swallowed, it is most unlikely to be rejected with the sputum. Violent coughing with phlegm does not cause rejection of the Sacred Host if the latter has been completely swallowed. It would be seriously irreverent to employ a stomach pump very soon after receiving Holy Communion. To prevent any possible profanation, some food and drink should be taken, and digestion allowed to continue for an appreciable time, e.g. for nearly half an hour, and even longer if possible.

CHAPTER VIII

THE TIME OF CELEBRATING MASS
(cc. 820, 821)

SECTION 1. Days on Which Mass May Be Celebrated

i. Mass may be celebrated on any day not excluded by the celebrant's rite. No Mass is celebrated on Good Friday. In the Roman rite, the only Masses approved on Holy Thursday and Holy Saturday are the solemn Masses prescribed by the liturgy' in greater churches according to the Roman Missal, or one sung or a Low Mass in smaller parish churches (or oratories, if allowed by induit) according to the *Memoriale Rituum* of Pope Benedict XIII. But a Low Mass may be celebrated on those days and even on Good Friday for consecration of Viaticum.

2. On Holy Thursday the following exceptions are made:

(a) A Bishop (even titular), if not obliged to celebrate in his cathedral, and an Abbot *nullius,* may celebrate one Low Mass or have one celebrated in his presence in a private chapel.

(b) If neither the full liturgy' nor the *Memoriale* of Benedict XIII can be carried out, one Low Mass may, with permission of the Ordinary', be said in smaller parochial churches or quasi-parochial churches, at an hour earlier than that of the solemn Mass at the cathedral.

(c) When, in the churches of Regulars (not oratories of seminaries or pious communities without special induit), the liturgy cannot be carried out, the Superior or delegate may celebrate a sung or a Low Mass in an oratory of the house to give Holy Communion to the Religious, and in default of an oratory, in the church with closed doors.

(rf) If a holy day of obligation falls on Holy Thursday, the Bishop allows as many private Masses to be said as are necessary for the faithful to fulfil their obligation.

3. On Holy Saturday, the proper liturgical Mass is celebrated. Private Masses are not allowed except by special induit. These Masses would then be said without prophecies, litanies, or introit, and after the liturgical service of the day.

SECTION 2. The Hour of Celebrating Maes

I. Mass may not be begun earlier than one hour before dawn, nor later than one hour after midday, unless there is some just cause, or a dispensation, or privilege, for doing so. Actual dawn does not vary in

accordance with the different systems of time which may be adopted; midday may be variously computed by G.M.T., or local mean or true solar time, or summer time, or any other approved system. Diocesan calendars usually indicate the hour at which Mass may be begun.

2. It is a grave sin if, apart from special privilege, dispensation or grave reason, Mass is concluded two hours before dawn, or begun two hours after midday. But when there is no night during the twenty-four hours, Mass may be begun at civil midnight; when dawn is very late or does not appear at all, approved custom determines the times of saying Mass, and this is usually the hour at which civil life begins for early risers.

3. It is permitted to begin Mass earlier or later than the times prescribed in cases of necessity, as when Holy Viaticum is to be consecrated, or if approved custom sanctions it, or in virtue of dispensation or privilege.

4. At midnight on Christmas Eve, the parochial or conventual Masses may be begun, but no other without Apostolic induit.

5. In religious houses in which members of a religious Institute live in community, and in all pious houses in which persons live in community and are normally engaged in pious avocations, provided that these institutions are allowed to reserve the Blessed Sacrament habitually, one priest may celebrate the three Christmas Masses, or only one of them, on Christmas Eve midnight, and administer Holy Communion. It is not forbidden to celebrate two of the three Christmas Masses at midnight. The faithful who are present at any of these Masses fulfil their obligation of hearing Mass. For a good reason, the local Ordinary may forbid these Masses to be celebrated in parish churches.

6. Different computations of time may not be used for the celebration of the three Christmas Masses, for they are not formally distinct acts (P.C.C.J., May 29, 1947).

CHAPTER IX

THE PLACE FOR CELEBRATING MASS

(cc. 822-823)

SECTION 1. Places of Obligation

Mass must be celebrated in a church or public oratory or semi-public oratory, each of which must be either consecrated or blessed in accordance with law. Mass must be celebrated on a consecrated

altar, either fixed or rtable, and the place of celebration must be one that has not been violated, desecrated, or interdicted. A private oratory is not consecrated or blessed after the manner of a church, though Mass may be said there with papal induit.

SECTION 2. Permissive Places

1. Permission for a just and reasonable cause to celebrate Mass outside a church or oratory in a befitting place (never in a bedroom actually occupied) on a consecrated altar stone, may be granted on occasion and for an unusual contingency, by the local Ordinary, and in the case of exempt Religious, by the Provincial. This concession of law must be interpreted strictly (P.C.C.J., Oct. 16, 1919).

2. The privilege of celebrating Mass on a portable altar is to be understood as the facul ty of celebrating in any befitting place, but not on shipboard nor aeroplane. To celebrate Mass in the open permission of the local Ordinary' is required, and the altar must then be screened (S.C. de Sacr., March 26, 1929).

3. Permission to celebrate Mass on shipboard is granted on condition that there is no danger of irreverence to the Blessed Sacrament.

4. An Apostolic induit is needed for celebration of Mass in a private oratory. One who has the privilege is exhorted to gather the family together in the evenings to recite the rosary and other prayers to God. The Ordinary may forbid Mass in the oratory, if the priest is needed for Mass in the church (S.C. de Sacr, Oct. 1, 1949).

SECTION 3. Forbidden Places

1. It is forbidden to celebrate Mass in a church of heretics or schismatics, even if such church had been formerly blessed or consecrated.

2. Without special induit, Mass may not be celebrated by priests of the Latin rite on the antimensia of the Greeks (linen cloths containing relics of the Saints). Permission to employ such linen cloths was granted during the war 1939-1945.

3. No one may celebrate Mass on the papal altars without Apostolic induit; these altars are the main altars of the Roman basilicas of S. John Lateran, S. Peter, S. Paul, S. Mary Major, and a few outside Rome.

CHAPTER X

REQUISITES FOR MASS[1]

1. The Altar

(a) A fixed or immovable altar consists of a stone slab joined to its base or support. The table consists of a single slab of natural stone not friable. Table and base constitute one whole and are consecrated as such. The stone of the table may not be a composition or cement; it may be slate. Two or three layers of natural stone laid on one another and joined with cement cannot be validly consecrated as a fixed altar (S.R.C., Oct. 17, 1931).

A small cross is incised at each corner and on the front. The base, or at least the sides or supports, as columns, must consist of stone where they come into contact with the table. Each comer and the centre are anointed. There must also be a hollowed-out space called the sepulchre, to be explained later.

(Z>) The empty space beneath the table may not be used for storing things, but a reliquary may be placed there. No corpse may be put immediately underneath the altar, or nearer to it than one metre, but a stone crypt containing bodies may be beneath the altar structure.

(c) The altar at which Mass is celebrated must be consecrated. It loses its consecration in the following ways:

(i) If the table is separated from its base even for a moment.

(ii) If the altar or its base is seriously fractured; this would be so if the fracture was considerable, or if any of the anointed crosses were broken off.

(iii) By removal of the relics from the sepulchre, except when the Bishop or his delegate removes them for inspection.

(iv) By the removal or fracture of the lid of the sepulchre. A slight fissure does not affect the consecration, and any priest may cement the fissure without removing the lid. The Bishop may, however, remove the lid for any necessary purpose, and if it is fractured in the process the consecration is not lost.

(if) A portable altar or altar stone is a compact stone consecrated for Mass precisely as the fixed altar. It must be a single stone, natural and not friable. Its size must be such as to be able to hold at least the Mass host and the greater part of the base of the chalice, but it should

[1] The author is indebted for much of the matter of this chapter to articles which have appeared in the *Irish Ecclesiastical Record,* 1935 onwards, contributed by Rev. E. Long, D.C.L., for whose permission and that of the editor and publisher to use this matter the author expresses his grateful thanks. Reference has also been made to the work of Rev. J. O'Connell, *The Celebration of Mass,* with acknowledgment.

be large enough to hold also a ciborium and the pyx containing the Benediction host. It should be let into its supporting base so as to be level with the table. This altar loses its consecration exactly as does the fixed altar, except that it may be removed from its support.

(e) The sepulchre is a hollowed-out space cut out of the upper surface of the stone, or in the case of a fixed altar it may be cut out of the vertical front or back. It must be covered with a closely fitting lid fixed with blessed cement and covered with a waxed cloth. In both fixed and portable altars the sepulchre must contain the relics of two Saints, but a relic (part of the body) of one martyr is sufficient, and the relics must be authenticated.

(f) The privileged altar.

(i) One kind of privileged altar and the most usual one is that to which is annexed for Mass said at it a plenary' indulgence applicable to a soul in Purgatory', and to that soul alone for whom Mass is offered, except that on the Day of Commemoration of All Souls, Mass can be offered for all the Holy Souls. There are some altars privileged for the living, others for both living and dead. The indulgence gained for the living is granted by the Church by' way of absolution; the indulgence offered for the dead is an offering by way of intercession not of absolution. Mass celebrated at a privileged altar for the living who are in danger of death carries with it a plenary indulgence by way of absolution (S.O., Nov. 9, 1922, private).

(ii) A privileged altar must occupy a fixed place in a church or oratory. The privilege may be attached to the altar for every day or for some particular day's.

(iii) The privilege of a privileged altar may be a personal one, and the indulgence can then be gained whenever and at whatever altar the privileged person celebrates Mass. Priests who have made the heroic act (an act which transfers all a person's indulgences to the Holy Souls, both the indulgences gained in life and those applied to him after death) have this privilege whenever they say Mass, and priest members of the Pious Union of the Death of S. Joseph, when they say Mass for the dying.

(iv) The privileged Mass need not be a Requiem Mass, but it is fitting that it should be such if offered for the dead when the rubrics

(v) One privileged altar may be designated by Bishop, Abbot or Prelate of independent jurisdiction, Vicar or Prefect Apostolic, Superior of an exempt clerical institution, in cathedral, abbatial, collegiate, conventual, parochial, quasi-parochial, church, if there is no other privileged altar already existing; but apart from special induit, they cannot do so for oratories, whether public or semi-public, unless these are subsidiary to the parish church.

(vi) Every altar is privileged on the day of the Commemoration of All the Faithful Departed and during its octave (S. Pcenit. Oct. .31, 1934), and on the days when *Quarant' Ore* takes place, whether in its complete form, or *ad instar,* that is, exposition on three days without exposition during the nights *(Preces et Pia Opera,* η. 169).

2. The Frontal or Antependium

The front face of the altar table structure should be covered with a cloth, and also the back of the altar if visible to the people. This cloth is the antependium. Its colour should be the colour of the day; black may not be used at the altar of the Blessed Sacrament; in its place violet is used for Requiem functions. At Benediction, the colour should be white, cloth of gold, or silver cloth, but the colour of the day, not black, may be retained if Benediction follows Mass immediately. The colour should be white if the Blessed Sacrament is exposed. As the antependium is an ornament, it need not be used if the front of the altar is of precious material and ornamented.

3. The Altar Canopy

The canopy over both the altar and part of the predella near the altar may be a structure of stone, metal, or wood, or a baldachino of cloth fixed to a frame of wood. Such canopies are not very common in this country, but there seems to be a general opinion that they are obligatory for the high altar and the altar of the Blessed Sacrament, especially if there is a living room or dormitory immediately above the ceiling of the altar. Since this canopy cannot be easily changed, the stuff used is white or red.

4. The Altar Cloths

(a) The altar table of a fixed altar must be covered throughout its length and breadth with three linen or hemp cloths, or a folded one under the upper one, blessed by a Bishop or one who has faculty to bless them, the uppermost cloth reaching to, but not touching, the ground at the sides of the altar, and not necessarily hanging over the front. If the altar is a portable one, the two inner cloths should cover at least the whole of the altar stone. The waxed cloth covering an inset altar stone does not serve as one of the necessary three cloths.

(ὁ) The use of lace stitched to the front of the uppermost cloth, or of lace with a backing of coloured stuff, is tolerated. Usage also allows embroidered lettering on the front of the uppermost cloth, such as *Adoremus in Aeternum.* When the altar is not in use, the table is covered with a dust cloth, preferably green.

5. Relics and Statues

(a) Small authentic relics of the Saints in sealed reliquaries may be placed on the altar between the candlesticks. Shrines containing large portions or the whole body of a Saint may be placed under the altar table. A relic of the True Cross must have its own reliquary. Relics of the Beatified may be exposed only where a privilege exists of celebrating Mass and Office in their honour. Relics of the True Cross must be exposed on the altar table. Relics may not be exposed during Benediction or exposition of the Blessed Sacrament, nor placed on or above the tabernacle, nor in front of its door.

(à) Small statues may be set on the altar or reredos, but not over the tabernacle nor in place of the crucifix.

6. Flowers

(a) Flowers put on the altar should be cut flowers, but artificial silk flowers are permitted. The altar of repose on Holy Thursday should be decorated with flowers and the high altar with palms on Palm Sunday.

(ò) Flowers are forbidden at Requiem functions and during Lent except on the fourth Sunday, and Advent, except on the third Sunday, when the office is ferial, and on Christmas Eve; also on Holy Saturday before Mass, at the blessing of candles on February 2, on the Vigil of Pentecost before Mass, at September Mass of Quarter tense, and during a votive Mass of the Passion. These prohibitions do not extend to extra-liturgical services.

(r) Vases with flowers may be placed between the candlesticks on the gradines, never in front of the tabernacle nor on it, nor in front of the crucifix.

(if) Vases of flowers and potted flowers and plants may be placed on the sanctuary steps or at the sides of the altar and on supports or without them.

7. The Crucifix

( ) During the celebration of Mass a crucifix is required. It should be visibly conspicuous and elevated above the candlesticks and on a line with them in the centre. It may not be placed in front of the tabernacle nor on the fixed throne of exposition. Though it may be placed on the tabernacle, it is better to place it a little behind the roof of the tabernacle, if possible. A painting or sculptured figure of the crucifixion on the reredos is permitted. The crucifix may be blessed by any priest.

( ) The crucifix should be removed during exposition of the Blessed Sacrament on the throne, but may be retained during Mass in presence of the Blessed Sacrament exposed.

8. Candles and Candleeticka

(a) During the celebration of Mass, single candlesticks each with its lit candle must be used. Branched candlesticks are forbidden.

(ά) For the Low Mass of a priest below the rank of bishop, two candles are lit, one on each side of the altar on the altar table or a gradine. A third candle on the epistle side to be lit before the consecration till after the communion is prescribed, but contrary custom is tolerated. More than two candles may be lit at the conventual Mass, or a parochial Mass, or the Mass of a religious community on more solemn days, or when a Low Mass replaces a solemn one.

(c) For the private Mass of a bishop, two candles suffice, but four are lit on solemn feasts.

(rf) For a Solemn Mass, six candles are usually lit, but four suffice on lesser feasts. Seven candles are lit when the bishop of the diocese celebrates a solemn non-Requiem Mass, and when he celebrates an ordination Mass.

(?) The candles used at Mass, the paschal candle, the candles obligatory at exposition and Benediction (twelve in this country) must contain at least 65 per cent of beeswax, and all other candles on the altar 25 per cent. Unbleached yellow candles must be used for Requiem functions, Office of Tenebrae and on Good Friday. Candles set in tubes enclosing spiral springs are tolerated. For a ciborium Benediction, six candles suffice and for *Quarant' Ore* twenty are required.

(/) The candles are lit, beginning with that nearest the crucifix on the epistle side, and then the rest on that side, then those of the gospel side in the same order. The reverse order is used in extinguishing them.

(g) The paschal candle is lit during paschal time at High or sung Mass, and at Low Mass which takes the place of a solemn one, at sung Vespers, when solemn Mass or Vespers are celebrated with the Blessed Sacrament exposed, during Mass on the three greater days in the octave of Easter, on the eve of Low Sunday, on all Sundays during paschal time until the conclusion of the gospel on the Ascension, when it is extinguished; after Ascension Mass it is removed and not lit again, except on the eve of Whit Sunday during the blessing of the font. It is not lit at Requiems, nor when violet vestments are used, nor at Benediction unless this follows sung Vespers.

Note. Ruling on Candles

The Congregation of Sacred Rites (Aug. 18, 1949), ruled that in view of the expenses in buying candles at the present time, two wax candles must be lit at a private Mass, at least four at a solemn or sung Mass, four at solemn exposition of the Blessed Sacrament, and other

lights added to complete the prescribed number. But Ordinaries are urged to restore the customary practice in regard to the number of lights as soon as possible.

(a) At least one lamp must burn day and night before the Blessed Sacrament in the tabernacle. The lamp must be fed with olive oil or beeswax, but when there is a scarcity of oil, the Ordinary may permit the use of other oils, vegetable if possible.

(ά) The lighted lamp is not restricted to the altar of the Blessed Sacrament. One may be used at any altar or shrine.

(c) The sanctuary' lamp may be fixed in a bracket on the side wall.

(d) If more than one lamp is used, the number of them must be uneven. The glass of the lamps should be transparent, but coloured glass is tolerated; red and green are mentioned by the Sacred Congregation of Rites.

(c) The lamp must burn continuously, so that deliberate negligence in allowing it to remain extinguished for a notable time (twenty-four hours) is considered a grave sin.

10. The Missal, Stand, and Cards

(o) In celebrating Mass, the priest must use an approved missal. The proper of a diocese, Order, Congregation, if inserted in the missal, must be inserted at the end unless papal approval permits otherwise.

(5) A stand instead of a cushion for the missal is permitted, and this may be covered with a silk cloth of the colour of the day, but is uncovered for Requiem Mass.

(c) The three altar cards are allowed for the convenience of the celebrant, though only the central one is mentioned in the missal; they should be removed after Mass. The music for the intonation of *Gloria* and *Credo* should be printed on the centre card. The cards should be light and not so large as to obscure the door of the tabernacle. The light should be so placed as not to cast the shadow of the priest on the cards, especially on the words of consecration.

11. The Tabernacle

(û) The canons (c. 1269) lay down this rule concerning the tabernacle, namely, that the most Holy Eucharist is to be reserved in an Hit! ovable tabernacle set in the middle of the altar. It must be of good workmanship, closed on all sides, becomingly adorned in accordance with liturgical laws, containing nothing but the Blessed Sacrament, and so carefully guarded that the danger of sacrilegious profanation is precluded.

(ζ) The Sacred Congregation of the Sacraments issued an Instruction (May 26, 1938) on the custody of the most Holy Eucharist, in which the following points refer to the tabernacle:

(i) The most suitable tabernacle would be one that is an iron box, which could not be drilled or broken by the usual methods of burglars, and firmly fixed with strong bolts to the lowest gradine or the opposite wall. It should be encased in marble and decorated, or failing that, the iron box should be let into a tabernacle already existing.

(ii) Sacred vessels of considerable value should not, as far as possible, be left in the tabernacle, so that when a valuable ciborium has to be used on certain solemn occasions, it should be purified at the last Mass, after the sacred particles are transferred to an ordinary ciborium and the valuable one put away in a safe place, not in the sacristy.

(iii) The material of the tabernacle is not prescribed. Its shape is preferably domed in order that its canopy should completely cover it. It may be surmounted by a small sacred emblem, as a cross, crown, or sceptre.

(iv) Interiorly the tabernacle must be lined with plate, solid gold or gilt or white silk, and fitted with a corporal on which the sacred vessels rest. Inner curtains are not prescribed and are only tolerated (cf. S.R.C., Aug. 7, 1871).

(v) The double or split door is preferable as being less likely, when opened, to strike the chalice. The top of the tabernacle may not be used as a stand for images, relics, candlesticks, flower vases. Nothing may be placed in front of its door except the Mass card during Mass and the Pontifical Canon. The tabernacle must be blessed with the form given in the Roman ritual (*tit.* viii., c. 23).

12. The Key of the Tabernacle

(a) The canons (c. 1269, §4) prescribe that the tabernacle key must be guarded with the greatest diligence, a prescription seriously imposed on the conscience of the priest who has the custody of the church or oratory.

(α) The aforesaid Congregation laid down rules for the safe keeping of the key. It may never be left on the table of the altar, or in the keyhole of the tabernacle, not even when the morning services are held at the altar of the Blessed Sacrament and Holy Communion is administered, especially if this altar is not in a conspicuous position. When the aforesaid services are concluded, the key must be kept by the Rector of the church at his home, or always carried by him without any risk of losing it; or it may be kept in the sacristy enclosed in a safe and secret place, locked by a second key which is to be safeguarded by the Rector as stated above. This obligation is grave. In the event of the Rector's absence he must entrust the key to another priest. If

the key is kept under another key in the sacristy, this key must be entrusted to the sacristan during the Rector's absence in case it should be required.

(r) In churches which are not parochial and in which the Blessed Sacrament is reserved by papal induit, the key must be kept by the chaplain or the Rector, never by a lay person.

(j) In churches of nuns or female Religious and in pious and religious houses of women and in convents of nuns, it may not be kept within the precincts of the choir or monastery, but in the sacristy, so as to be available when needed. After the sacred functions are completed, especially at night, the key must be restored to a safe, secret and strong place, which is to be locked with two keys of different patterns, one of which is to be kept by the Superior or her substitute, the other by another nun, as the sacristan, so that both keys will be needed for unlocking the tabernacle.

(e) In oratories of seminaries, church colleges, chapels of educational institutes, hospitals and such like, which have the faculty of reserving the Blessed Sacrament, the key of the tabernacle must be kept by the Rector or the Superior of such places, if he be a priest, otherwise by the spiritual director or chaplain who celebrates Mass and other sacred functions, and the greatest care must be taken that it does not come into the hands of others.

(/) In private oratories which have the faculty of reserving the Blessed Sacrament, the key of the tabernacle is usually kept by some trusty person of the family, but the Bishop may entrust it to the priest who celebrates Mass there, especially if he does so habitually, or to the parish priest, who wall hand it as required to the priest who is to celebrate Mass. In every case it is a grave duty to see that the key does not pass into the hands of others.

13. The Tabernacle Canopy

(a) The canopy is a veil which covers the whole of the tabernacle. For convenience it is divided down the centre. The veil is prescribed for every altar which contains in its tabernacle the Blessed Sacrament. The Sacred Congregation urges its use even if there is a contrary custom against its use, and even though the tabernacle has an inner veil, or is of precious material, or artistic design. When a tabernacle cannot be covered entirely, a curtain across its door is sufficient.

(A) The colour of the canopy should vary with the colour of the Office of the day, though it may always be white; black is never permitted, but its place is taken by a violet canopy on All Souls Day and at Requiem functions. For exposition of the Blessed Sacrament the colour should be white, except that when Benediction or exposition or deposition precedes or follows Mass or Office immediately,

the colour of the Office of the day (not black) may be retained, if the sacred ministers do not leave the sanctuary after Mass.

14. The Throne

(a) For the *Quarant' Ore* and for every long exposition (not for simple Benediction, nor for a ciborium Benediction), a throne for the Blessed Sacrament is required, unless the altar is covered with a baldachino.

(/>) A movable exposition throne should be used when there is no fixed throne or baldachino. A stand on the altar table to serve as a throne is not correct.

(c) The throne may be constructed in a reredos at the back of the altar if it can be regarded as a part of the altar structure.

(J) The fixed throne may not serve as the usual place for the crucifix.

15. The Predella

There must be a predella or footpace, on which the priest stands during the celebration of Mass after reciting the psalm *Judica.* Its material may be of stone or wood. The sanctuary steps leading to the predella should be uneven in number, preferably three, neither steep nor narrow. The altar should be so elevated that the people can see the actions of the celebrating priest.

16. The Cruets

The cruets to contain the wine and the water for Mass should be of transparent crystal or white glass, but the custom of using metal cruets, gold or silver gilt, is tolerated. If the cruets are opaque, they should be clearly marked with letters or ribbons, lest at the communion it may be found that the chalice contains mostly water. A small spoon may be used for adding the water to the wine in the chalice, and at High Mass it is preferable that the subdeacon should use a spoon, lest he pour too much water into the chalice.

The salver on which the cruets stand may be of any material, but it should not be used as the lavabo dish. The cruets should be covered with the lavabo cloth or fitted with stoppers, to keep out dirt and insects.

17. The Bell

The rubrics prescribe a small handbell to be sounded both at Low and High Masses, three times at the *Sanctus,* at the *Hanc igitur* as a warning that the consecration is to take place, at the elevations, when the priest genuflects and raises the host and chalice and at the *Domine non sum dignus* three times. The more correct form of the bell is a handbell with a single tongue. Chiming bells (carillon) are not

forbidden, but Indian gongs are. The bell should not be rung at a Low Mass said during exposition, either at the altar of exposition, or at a side altar, nor at a solemn or sung Mass at a side altar during exposition at another altar. When solemn Mass is celebrated at the altar of exposition, the custom of ringing or not ringing the bell may be retained.

18. The Communion Rail and Plate

(a) The communion rail, which is not of obligation, may be made of stone, wood, or metal. A communion rail should have a broad top for the communion cloth, which is still to be employed, though a communion plate is now obligator)·. The cloth serves to catch any particles which fall owing to carelessness in the use of the plate.

(b) A plate of metal gilt and entirely smooth on its inner surface is prescribed, except when the deacon uses the paten, and it must be held under the chin of each communicant. The server may hold it under the chin of each communicant, and it is better that he do so, since communicants prove to be very careless in tipping the plate. The priest should carry the plate back to the altar, for servers are apt to tilt it. When the plate is not in use, it is kept on the credence, either in a cloth bag or face downwards. No blessing is prescribed for the plate. In purifying the plate after giving Holy Conununion to the faithful, any particle that appears on it must be put into the chalice when Mass is being said, or into the ciborium when Mass is not being said. It is objectionable to brush with finger or thumb everything that is on the surface of the plate, for after Holy Communion given to a large number of the faithful, it will usually be found that pieces of hair and skin have fallen onto the plate. The priest who purifies chalice or ciborium would thus have to swallow foreign matter.

19. Incense

Incense used in Mass should be pure gum-resin, though the addition of other aromatic substances is permitted in small quantities. When it is impossible to get incense, as in war time, permission has been given for a composition ofjuniper berries and lavender flowers.

20. Blessing of Mass Requisites

(a) The following require blessing, namely, vestments which are used during Mass, the altar cloths, the corporal, the pall, the ciborium and pyx, the lunette, and probably the monstrance.

(ά) Chalice and paten must be consecrated.

(r) The humeral veil, the veil of the chalice, and the burse, need not be blessed. The purificator is not blessed.

21. Clialicc and Paten

Chalice and paten must be made of gold or silver, gilded inside, or at least be gilt inside. Tin may be used in cases of great poverty; brass, copper, wood, glass may not be used except with dispensation. A chalice, the gilding of which has perished, must be regilt; it does not thereby lose its consecration. The paten must be made of solid and befitting material and its upper surface gilded and completely plain, but a depressed centre is not forbidden, and this serves to steady the paten on the top of the chalice. A cross in relief on the edge of the upper part of the paten serves to remind the priest not to kiss that part of it over which the consecrated host has passed.

22. Ciborium and Pyx

(a) The term ciborium is here used for the vessel containing the consecrated communion hosts. The term pyx is used for the small vessel employed for the host taken to the sick and also for the box which contains the lunette.

(Z>) These vessels must be made of solid and befitting material, not of glass, steel, lead, ivory, stone, or wood. They are gilt inside.

(c) The ciborium should be veiled when it contains the Blessed Sacrament, and as is generally thought, when exposed to public view, like the monstrance before and after Benediction. The veil should be made of white silk and preferably circular. The burse of the pyx may serve instead of a veil.

23. Monstrance and Lunette

(a) The monstrance is the vessel which serves to hold the large host exposed for Benediction. A cross surmounts it. Its weight should be reasonably light, since it is carried during processions.

(Z>) The lunette, often shaped like a crescent with two hinged sides, so that it can be easily opened and purified, is the vessel for insertion into the monstrance of the Sacred Host used at Benediction; its place may be taken by a cylindrical box which can be bodily inserted into the monstrance. This box needs no pyx to contain it. The Sacred Host should not touch the glass sides of the pyx or lunette.

(c) Both monstrance and lunette must be made of metal and the lunette gilded inside.

24. The Pall

The pall is a square piece of stiffened and doubled linen for covering the chalice during Mass. Cardboard which is sometimes inserted between the folded linen is unsuitable, as some of the sacred species may soak into it. The upper surface of the pall may not have any

ornamentation which suggests death, or the Sacred Passion. The simpler the pall, the better and the more rubrical it is.

25. The Corpora]

(a) The corporal is a square piece of linen placed on the altar table beneath the chalice. It should be large enough to contain the chalice, the paten and a ciborium, but not so large as to make it difficult for the priest to place his hands outside it when he genuflects, nor so that the central card rests on it.

(ά) The corporal should have no ornamentation on it, not even the small red cross which one often sees, for this is apt to retain a small particle of the sacred species. A plain corporal without lace edges is preferable.

26. The Purificator

The purificator is a linen cloth used by the priest for wiping his fingers, mouth and chalice. It should be folded twice along its length. It is not blessed. Since it may absorb some of the sacred species, it should be easily distinguished from the lavabo towel by a small red cross on its edge or at its centre.

27. The Amice

The amice is a square or oblong piece of linen worn by the priest during Mass round his neck and shoulders, under the alb, its tapes being crossed round his waist and breast and tied in front. A small red cross is embroidered at the top centre.

28. The Alb

The alb is a long full-sleeved tunic put on over the amice. It should reach from the shoulders to within an inch of the feet. It must be made of linen or hemp. It may be ornamented with lace from the knees down, with or without a backing of stuff of black or red, and with lace at the wrists. It is not usually possible to have the colour of the backing the same as that of the Office of the day. An alb which is not full from the waist down greatly impedes the priest when genuflecting or walking.

29. The Stole

The stole, an arrow scarf-like vestment, is worn at Mass over the alb across the shoulders, hanging down in front on both sides, and crossed over the breast, the ends being looped with the girdle. These ends should appear below the chasuble. Crosses are often worked at both extremities. The stole should not touch the neck. The material is the same as that of the chasuble.

30. The Girdle

The girdle is a cord usually knitted and made of linen. It is tied round the alb at the waist. It is doubled and serves also to loop the stole at the sides. Its ends are finished off with tassels which should be light. Girdles should not be so long as to sweep the floor and gather dirt.

31. The Maniple

The maniple is a short stole worn over the left arm. A cross is worked at its centre and sometimes at each end. It should not be long, lest it brush the host off the corporal. The material is the same as that of the chasuble.

32. The Chasuble

(a) The chasuble is the outermost vestment resting on the shoulders and falling down front and back to below the knees and ornamented with a T cross in front extending the whole length and breadth, and a column on the back extending the whole length. The full chasuble comes down over the arms to the wrist, the curtailed chasuble is cut away in front just below the shoulders, its vertical edges at the back being straight.

(Z>) The Sacred Congregation of Rites in replying (Dec. 9, 1925) to the question: "Is it permitted, when making and using vestments for the sacrifice of the Mass and other sacred functions, to depart from the usage of the Church and introduce another style and shape, even if it be an ancient one?" stated that it is not permitted to do so without referring the matter to the Apostolic See, in accordance with the decree or circular letter of the Sacred Congregation of Rites addressed to the Most Reverend Ordinaries in 1863.

(c) The Roman chasuble is rectangular in front and behind, hangs straight and stiff, with a head opening, triangular at the back and trapezoidal in front. Many authors do not see in the aforesaid reply any general condemnation of what is called the full chasuble.

(d) The material of the main part of the chasuble should be silk, probably artificial silk is permitted. Cloth of gold or of silver may be used, but the cloth must be woven, that is, composed of gold threads and a mixture of silk, and either gold or silver gilt. Imitation of cloth of gold is not permitted.

(e) As to the ornamentation of the chasuble, there is no prohibition against embroidery or painting on it, whether of suitable representations of Our Lord, or the Saints, or of flowers and leaves, but black vestments may not have any representations of death on them.

(/) The liturgical colours are white, red, green, violet, black. Rose-coloured vestments are allowed on *Gaudete* and *Laetare* Sundays. Cloth of gold may be used for white, red or green. Cloth of silver may be

used for white. Yellow may not be used. Blue may not be used except in virtue of special induit, as in Spain. The ornamentation of the vestments need not be wholly of the liturgical colours, but the latter must always predominate.

33. Missa Dialogata

The faithful may be encouraged, with the approval of the local Ordinary, to make the responses during Mass which the server usually makes. The Congregation of Sacred Rites replied (Nov. 30, 1935) to a question on this matter, namely, -whether the people might recite with the priest the *Gloria, Credo, Sanctus, Benedictus* and *Agnus Dei?* The reply was that the practice is left to the decision of the Ordinary.

3-L Contact of Sacred Things

(a) Only a priest or a deacon may touch sacred vessels which contain the Blessed Sacrament, but in cases of necessity, or danger of profanation anyone may do so.

(b) Only clerics, sacristans and those who have the care of Mass requisites may touch the chalice, paten, purificators, palls, corporals which have been used in Mass and have not been purified by washing. The first washing of these linens must be done by one who is in Sacred Orders, the water used must be poured down the sacrarium, or failing that, into the fire, or onto the earth.

35. Loss of Blessings

(a) Sacred vessels or objects lose their blessing when they have been so changed as to lose their original form, or have been rendered useless, or when put up for public sale, or used for secular purposes. Mere exchange or private sale does not destroy the blessing.

(ȯ) The chalice loses its consecration if a hole is made in the lower part of the cup, or if the cup is broken off the stem, not if it is merely unscrewed.

(c) The paten loses its consecration if its shape is so changed that it can no longer be used as a paten. If the gilding of chalice or paten is worn away, it must be renewed ; consecration is not lost by regilding.

Sacred vestments lose their blessing if they become quite unsuitable for their original purpose, or if repaired so that the old part that remains is less than half of the original. Chasubles may be cut up for making stoles or maniples, but these must have a new blessing.

CHAPTER XI

CIRCUMSTANCES IN THE CELEBRATION OF MASS
(c. 818)

SECTION 1. The Rubrics

1. The rubrics to be observed during Mass are preceptive, so that disregard of them in a considerable number would be a grave sin. But if taken separately, they bind under grave or light obligation, in accordance with the matter with which they deal. Consequently those rubrics which regard valid consecration bind under grave sin, as also do those which cannot be omitted without grave scandal or disrespect. Rubrics which regard the actions of the priest before and after Mass are directive only.

2. A priest who cannot, for a grave reason, observe all the rubrics may celebrate Mass privately if he has to omit rubrics only of small moment; he may celebrate publicly if no scandal ensue. In matters of greater rubrical importance, he could obtain dispensation to omit some rubrics, but doubtless he would have to celebrate Mass privately.

SECTION 2. Additions and Omissions in Mass

1. Addition of ceremonies or prayers during Mass is forbidden. An additional short mental ejaculation which would not interrupt the sequence of Mass would not be sinful; a priest is forbidden to pronounce, even in a whisper, the words: "My Lord and my God" during the elevation of his Mass.

2. Omissions of integral parts of the Canon of the Mass are serious sins, such as the *Memento, Communicantes, Supplices Te,* all up to the introit, the epistle with tract and gradual, the gospel (not the last gospel), all the prayers proper to a Mass (not the commemorations), several prayers between offertory and Canon. It is probably not a serious sin to omit the *Gloria or Credo* or a commemoration or a collect. If, in Holy Week, a priest cannot say the whole of the Passion and must say Mass, or says it from devotion, he may substitute, if he can do so without scandal, the votive Mass of the Passion. Considerable weakness would justify the omission of the long lessons during some of the Masses of Ember Weeks. When a priest has to binate on Palm Sunday, permission is given by the Ordinary to omit the recital of the Passion at one Mass and recite the conclusion of it as the gospel.

SECTION 3. Mass Discontinued or Interrupted

1. To discontinue Mass completely so as to leave the sacrifice incomplete is never permitted, except in the most urgent necessity, and then the celebrant (if no other priest is available—even non-fasting—to complete the sacrifice) must consume the consecrated species, or take them elsewhere, and either complete the Mass, or if that is not possible, consume the sacred species. If the celebrant had to cease altogether, but could not receive Holy Communion, another priest, even non-fasting, must consume both species at once if he cannot complete the Mass. If the previous celebrant could receive Holy Communion, a particle of the host which he had consecrated should be given to him.

2. To interrupt Mass before the offertory for a moderately good reason is permitted if there is no scandal; to interrupt it after the offertor)' but before the Canon requires a grave reason; to interrupt it after the Canon is begun and before the consecration needs a£seriousj [yiny 4*i<l>reason, as to give absolution or Extreme Unction to a person dying in the Church. Such a reason would be sufficient for interruption even after the consecration.

SECTION 4. Distractions During Mass

A voluntary and unnecessary distraction during the celebration of Mass is sinful, at least venially; it would be grievously sinful, if fostered for a long time during the Canon, or for even a short time during the consecration.

SECTION 5. Tone of Voice in the Celebration of Mass

In saying Mass, a priest must conform to the rubrics ruling the tone of voice to be employed in the several parts of the Mass. There are two kinds of sound made by the organs of speech, namely, the tone made at the vocal chords, reinforced by the cavities of throat and mouth, and this is the normal speaking and singing voice; secondly, the sibilant whisper, made by tongue, teeth and lips. There are degrees of pitch and volume in each. The secret parts of the Mass are said in a whisper, all the other parts are said in a vocal tone, which may be low or loud. The different tones are indicated in the missal by the terms, *clara* (vocalized), *aliquantulum elata* (enforced slightly not in pitch but in volume), *intelligibili* (audible), *paululum, elevata* (enforced slightly in volume).

2. If a priest recited the secret prayers so quietly as not to be audible to himself (apart from his deafness or noise), or so loud that he was easily audible to the faithful who were assisting at his Mass, he would commit a venial sin. If he recites the words of consecration so quietly that he cannot hear himself (apart from his deafness or noise) he commits a serious sin.

SECTION 6. Duration of Mass

i. The time to be taken for celebrating in private a Low Mass of normal length should always exceed a quarter of an hour for the sake of reverence; if said in public, the time should be nearly half an hour but not more. Too great haste would usually be a venial sin, apart from grave scandal or irreverence, which might be serious.

SECTION 7. Kind of Maes to be Celebrated

1. A priest is normally obliged to follow his own calendar, but very occasional substitution of another Mass instead of that prescribed may be made for a good reason if there is no scandal or contempt. To celebrate a Requiem Mass on such solemn feasts as Christmas Day, Easter, Whit Sunday, without a very grave reason known to those who were present, would be gravely scandalous.

2. In a private oratory, in secondary oratories of seminaries, and in pious and religious houses, the celebrating priest must follow his own calendar. In churches, oratories, public or semi-public, he must follow the local calendar on days when votive and Requiem Masses are not allowed. On days which are less than a double, he may celebrate Mass in accordance with his own office, but not in votive rite.

3. The calendar to be followed on shipboard when there is no fixed chapel, is that of the celebrant. If there is a fixed chapel, the calendar of the Universal Church should, we believe, be followed. A fixed chapel on shipboard is a public oratory; a chapel that is not fixed, is neither public nor private: it is a portable altar.

SECTION 8. Music

The canons absolutely forbid all music in church, whether of the organ, other instruments, or vocal, which is in any way lascivious or sensuous, and order the observance of the liturgical laws concerning music. These liturgical laws are embodied in the *Motu Proprio of* Pope X (1903), and the Apostolic Constitution of Pope Pius XI (1928). Chant accompanied by instrumental music is not that which is best adapted to holy things; it is fitting that the voice, rather than the instruments, should resound in sacred places. The Gregorian chant must be restored to usage among the faithful, at least in all that applies to them. They should not conduct themselves as spectators or mute listeners to choirs. But while insisting on a return to the ancient chant, the Popes have not excluded all modern compositions, if they are in harmony with the liturgy. Classical polyphony is to be preferred, its supreme model being the work and style of Palestrina. The organ may accompany and support the liturgical

chant, but may never dominate it. Other instruments may be permitted by the Ordinary', to the exclusion, however, of those that are loud and strident. The liturgical text must be sung exactly, without inversion or repetition of words. In the solemn liturgical functions, the vernacular may not be used without permission of the Ordinary. Mixed choirs may be a necessary' evil, but a particular reply of the Sacred Congregation of Rites (1908) did not approve of the mixed choirs which were then employed in the United States. The Ordinary has to insist on the separation of the male from the female singers. There is of course, no question of admitting female singers within the sanctuary choir.

Note. The Teaching of Sacred Music

The Sacred Congregation of Seminaries, etc., issued the following instructions on music (Aug. 15, 1949):

1. Sacred music is to be reckoned one of the necessary subjects, and is to be taught from the first year of humanities to the conclusion of theology'.

2. The times assigned to it must be in accordance with the Apostolic Constitution *Divini Cultus* nn. 1, 2, and included in the general curriculum.

3. During the autumn holiday's a longer time is to be spent in practical exercises.

4. An annual examination is to be held in this subject like that in others.

5. A competent music master is to be appointed for each seminary, and he is to be co-opted to the college of professors.

CHAPTER XII

DEFECTS IN THE CELEBRATION OF MASS *{MISSALE ROMANUM, DE DEFECTIBUS)*[1]

SECTION 1. The Bread

I. The bread is defective if it is not wheaten, or, if wheaten, is mixed with other grain in such quantity that the whole is not wheaten bread, or again if the bread is corrupted.

2. If, in baking the bread, rose water or any other distilled liquid is used other than water, the matter is doubtfully valid.

[1] In enumerating these defects, some repetition is unavoidable. The rules of the missal are here given in view of their great authority.

3. If the bread has begun to corrupt but is not yet corrupted, it is gravely unlawful matter; if the bread is not unleavened, it is gravely unlawful matter in the Latin Church.

4. If the celebrant discovers that the bread which he is using is either corrupted, or is not wheaten, his procedure must be as follows:

( ) If he discovers the defect before the consecration, he must put aside that bread outside the corporal, take proper bread, offer it at least mentally, and continue where he had left off.

( ) If he discovers the defect after the consecration, but before the consumption of the defective bread, (which is doubtful matter and must be treated as doubtfully consecrated, that is, as not certainly unconsecrated), he must take proper bread, offer it at least mentally, consecrate it beginning with the words *Quipridie,* and ending with the words *Corpus Meum,* without elevation or genuflexions, and proceed where he left off. The rejected bread, if not already consumed, must be consumed after the consumption of the Precious Blood, or may be given to one who is fasting and in the state of grace. If the rejected bread is not edible, it must be put into a clean vessel in some decent place until it is certainly corrupted, and then either burned or put down the sacrarium. Even if the celebrant had consumed the doubtful matter, he must consume the new host though he may not be fasting.

(c) If he discovers the defect in the bread after the consumption of the Precious Blood (even though the wine had been validly consecrated), he takes a new host, offers it at least mentally, puts wine and water (blessed as usual, except in Requiem Mass) into the chalice, consecrates the host and the wine, beginning in the latter case with the words *Simili modo* and ending with the words *in remissionem peccatorum,* without elevations or genuflexions; he then consumes each species in order, and may repeat the forms *Corpus Domini,* and *Sanguis Domini.*

5. If the consecrated host has disappeared by some mischance, as through wind, or miraculously, or was taken by some animal and cannot be found, another host is to be taken, offered at least mentally, and consecrated beginning with the words *Qui pridie.*

SECTION 2. The Wine

1. Wine that has become completely sour, or is corrupted, or was made from bitter or unripe grapes, or was mixed with so much water that the mixture is no longer wine, is not valid matter.

2. If the wine has begun to be sour or corrupted, or is somewhat bitter, or is new wine (i.e. not fermented), or if natural water has not been mixed with it (as prescribed, i.e. in a small quantity), the Sacrament is valid, but the celebrant sins gravely by consecrating such matter.

SECTION 3. Defects in Consecration

1. If, before the consecration of the chalice, though after the consecration of the bread, the celebrant observes that neither wine nor water was put into the chalice, he must at once put wine and water as prescribed into the chalice, offer it at least mentally, and consecrate the wine, beginning with the words *Simili modo.*

2. If, after the words of consecration of the chalice, he observes that water but not wine is in the chalice, he must pour the water into a vessel, wipe the chalice, take wine and water as prescribed, offer and consecrate, beginning with the words *Simili Modo.* The water put aside may be consumed after the ablutions or poured down the sacrarium.

3. If the celebrant observes that water only was put into the chalice, and does so after consumption of the consecrated host, he must empty the water into a clean vessel, wipe the chalice, take a fresh host, offer it at least mentally, put fresh wine and water as prescribed into the chalice, offer it and then consecrate both host and chalice, and consume both even if he is not fasting. But if the Mass is being celebrated in a public place where some people are present, then he may omit taking a fresh host if, by doing so, scandal would arise.

4. If the celebrant observed either before or after consecration that the wine is corrupted, he will act as above, as he would act if he discovered that there was no wine in the chalice, or water only.

5. In case the celebrant had put no water into the chalice, he must do so at once, if he observed the defect before the consecration of the chalice, not, however, if he had observed this after the consecration of the chalice.

6. If proper matter in place of defective matter cannot be got, and if this was the case before the consecration of the bread, the priest may not continue the Mass. But if, after consecration, either matter was found defective, and proper matter cannot be got, the celebrant must proceed with the Mass with the one species, omitting all words and signs that refer to the matter that is not present, but he may delay for a time, if there is a chance of getting proper matter in place of the defective matter.

SECTION 4. The Form

1. The words of consecration of the bread are: *"Hoc est enim Corpus Meum. '* The form of consecration of the wine is: *"Hic est enim calix Sanguinis Mei novi et aeterni Testamenti, mysterium fidei, qui pro vobis et pro multis effundetur in remissionem peccatorum."*

2. If the celebrant omits any of these words, or changes the form, so that the words used do not signify what the correct form signifies, the

Sacrament is null. But if an addition is made that does not change the meaning of the true form, the celebrant sins grievously, but the Sacrament is produced.

3. If the celebrant does not remember having said what is usually said in the consecration, he need not thereby be disturbed. But if he is certain that he omitted something essential to the Sacrament, namely, the form or a part of it, he must repeat the form and proceed with the Mass from the point at which he interrupted it. If, however, he has a very probable doubt about having omitted something essential, he must repeat the form with at least a tacit condition; but if what he omitted is not essential, he should not repeat, but continue straight on.

SECTION 5. Defect of Intention

1. If a priest did not intend to consecrate, but made a pretence of doing so, his intention was defective.

2. If, through forgetfulness, some hosts or some part of the wine remain on the altar, or if some host escaped his notice, then if his intention was not to consecrate what he did not see, or if he had before him eleven hosts and intended to consecrate ten of them without determining which ten, his intention was defective: but if he thought there were ten only, and wished to consecrate the lot, then all were consecrated.

3. Therefore a priest should always have the intention of consecrating all the matter before him that was to be consecrated.

4. If a priest thought that he was holding in his hands only one host, but after consecration found that there were two, he should receive in Holy Communion both together.

5. If a priest's intention was not actual during the consecration, owing to his mind wandering, but virtual, on the ground that when he came to the altar he intended to do what the Church does, then the Sacrament is produced; but a priest should take care to have an actual intention always.

Section 6. Fragments

1. If, after the consumption of the Body and Blood, or even after the ablution, he finds some consecrated fragments, he must consume them, whether they are large or small, for they belong to the same sacrifice.

2. But if he found an entire consecrated host, he should place it in the tabernacle together with the other hosts: if this cannot be done, he should leave it covered on the corporal for a priest to consume who is going to say Mass at the same altar. If neither procedure can be adopted, he must put it into the chalice, or on the paten, till it can be dealt with as above. But if the said host cannot be decently preserved, he may consume it.

Section 7. Disposition of Soul

1. A priest who is suspended, or excommunicated, or degraded, or in any other way canonically forbidden to celebrate Mass, sins grievously by doing so, both because he receives Holy Communion unworthily and exercises his Orders when forbidden, but the Sacrament is validly produced.

2. To celebrate Mass in mortal sin is a grave sin when a confessor is available.

3. To celebrate Mass in mortal sin in a case of necessity when a confessor is not available, but without making an act of contrition, is a grave sin; not so, however, if the priest makes an act of contrition, but he must confess as soon as possible.

4. If, during the celebration of Mass, the priest remembers that he is in mortal sin, he must make an act of contrition with a determination to confess and make satisfaction.

5. If, during the Mass, the priest remembers that he is excommunicated, or suspended, or that the place is interdicted, he must make an act of contrition with the resolve to seek absolution. But if the case happens before the consecration, he must discontinue Mass unless there would be scandal if he did so.

SECTION 8. Disposition of Body

1. If a priest is not fasting from midnight, he may neither communicate nor celebrate, even though he has taken water only, or some other liquid, or food by way of medicine, however small the quantity taken.

2. But if he took food or drink before midnight, even though he had not slept, nor digested what he took, he may celebrate Mass, but if his mind is disturbed and his devotion thereby lacking, he is advised to abstain from celebrating Mass now and then in such circumstances.

3. If the remnants of food which remain in the mouth after midnight are swallowed, they do not preclude the reception of Holy Communion, for they are not swallowed by way of food but as saliva. The same may be said if one swallows a drop of water unintentionally when washing the teeth or mouth.

4. If a priest celebrates several Masses on the same day, as Christmas Day, he must wash his fingers after each Mass, and only after the last Mass take the ablutions.

5. Si praecesserit pollutio nocturna, causata a præcedenti cogitatione, quaesit peccatum mortale, vel evenerit propter nimiam crapulam, abstinendum est a communione et celebratione nisi aliud confessario videatur.

In dubio de peccato gravi in praecedenti cogitatione consulitur abstinendum extra casum necessitatis.

Si certum est non fuisse in cogitatione peccatum mortale vel nullam fuisse cogitationem, sed evenisse ex naturali causa aut ex diabolica illusione, potest communicare et celebrare, nisi ex illa corporis commotione tanta evenerit perturbatio mentis ut abstinendum videatur.

SECTION 9. Defects in the Ministry

The following defects are enumerated in the missal:

1. Celebrating Mass in a place that is not sacred, or not assigned by the Bishop, or on an unconsecrated altar, or on one not covered with a triple altar cloth, or without lighted wax candles, or outside the proper times, namely, before dawn or after midday[1] or before the recital of at least Matins and Lauds, or without the priestly vestments, or with vestments or altar cloths not blessed, or without a server, or with a woman server, or without proper chalice and paten (the cup of the chalice must be gold or silver or tin, not copper or glass), or if the corporal is not clean, or not linen, or not blessed, or with head covered (no dispensation being obtained) or without a missal unless the Mass is known by heart.

2. If the church has been violated before the Canon, Mass must be discontinued; not, however, if violated after the Canon. Likewise Mass must be discontinued if, before the consecration, enemy incursion into the church is feared, or flood, or collapse of the building; if such are feared after the consecration, the celebrant must proceed at once to consume the Sacrament and omit everything else.

3. If the celebrant becomes seriously ill or faints or dies before the consecration, the Mass is not to be completed; if such happened after the consecration of the bread only, or after both consecrations, the Mass must be completed by another priest even if non-fasting (i.e. if only such a one is available). If the celebrant in the first instance is merely taken ill and can communicate, and if there is no host except the Mass host, the priest who is completing the Mass must give part of the Mass host to the sick celebrant and receive the other part himself.

4. If the celebrant died after pronouncing a part only of the words of consecration of the bread, there is no need that any other priest should complete the Mass. If he died after pronouncing part of the words of consecration of the wine, the substituted priest must proceed with the Mass, and repeat the words *Simili modo,* or may consecrate another chalice, in which case he consumes the host and the wine, and then the other wine which was not consecrated. Outside cases of necessity, it is a grievous sin not to consume the entire Sacrament, i.e. both species.

5. If a fly or spider or anything else had fallen into the chalice before

[1] Mass may not be begun earlier than an hour before dawn, nor later than one hour after midday (c. 821, §1).

the consecration, the wine must be put aside in a fitting place and fresh wine put into the chalice, a little water blessed and mixed with it, the offering made, as above, and the Mass continued. If such happened after the consecration and the celebrant is averse to consuming the contents of the chalice, he must extract what had fallen into the chalice, wash it with wine, burn it after Mass and put the ashes down the sacrarium.

6. If some poisonous substance has fallen into the chalice, or something that would induce vomiting, the consecrated wine (supposed to have been consecrated) must be put into another chalice, fresh wine and water consecrated, as above, and after Mass the Precious Blood of the first chalice is to be soaked up with a linen cloth or cotton wool, which is to be left in the said chalice until the species of wine has dried up, the cloth or wool being then burned and the ashes put down the sacrarium.

7. If some poisonous body has touched the consecrated host, another host must be consecrated, the former host being left in a tabernacle in a place apart until the species has corrupted, and it is then to be put down the sacrarium.

8. If a fragment of the consecrated host has remained in the chalice after the consecrated wine is consumed, it must be drawn up to the lip of the chalice and consumed before the ablution, or wine may be poured into the chalice and consumed together with the fragment.

9. If, before the consecration, the host is found to be broken, it is to be consecrated (i.e. the larger portion), unless the people notice it; but if they would take scandal, another host must be taken and offered. If the broken host had been offered, it must be consumed after the ablutions. If the fracture is observed before the offertory, a fresh host must be substituted, if possible without scandal or lengthy delay.

10. If part of the consecrated host falls into the chalice, Mass is to be continued with the remaining part of the host; but if the entire host fell into the chalice, it is not to be extracted. Mass is to be continued, and both species are to be consumed with the form, *Corpus et Sanguis* etc.

11. If the consecrated species of wine hits become frozen in the chalice, a warm cloth should be wTapped round the chalice; but if this has no effect, the chalice is to be immersed in warm water close to the altar, care being taken that no water gets into the chalice.

12. If any portion of the Precious Blood has fallen onto the ground or altar table, it is to be absorbed by the celebrant with his tongue, the spot scraped sufficiently and the scrapings put down the sacrarium.

13. If a portion fell on to the altar stone, it is to be treated as stated, the spot washed and the ablution put down the sacrarium. If a portion fell onto the altar cloth and penetrated to the other cloths, they are to be washed three times over a chalice and the water put down the sacrarium. If the portion fell onto the corporal or the vestments of the

priest, these should be washed as stated above, and the water put down the sacrarium. If a portion fell onto the carpet, this should be washed as stated above.

14. When the consecrated wine has been spilled, if even the smallest amount remain, that must be consumed and the spilled species treated as described above. If no portion remained, other wine and water, as prescribed, must be used and the matter consecrated, beginning with the words *Simili modo.*

15. If the celebrant rejects the Holy Eucharist and the host appears entire, he must consume it unless that would prove objectionable to him; in case he does not consume it, the consecrated species must be carefully separated, placed in a sacred place until corrupted and then put down the sacrarium. If, however, no part of the consecrated species appear, the whole mass is to be collected and burned and the ashes put down the sacrarium.

16. If the consecrated host or part of it fall to the ground, it must be taken up reverently, the spot where it fell cleansed and slightly scraped and the scrapings put down the sacrarium. If the host fell outside the corporal onto the altar cloth, or onto any cloth, that must be carefully washed and the ablution put down the sacrarium.

CHAPTER XIII

THE OBLIGATION OF CELEBRATING MASS

SECTION 1. The Obligation Derived from Office

i. Pastors are seriously bound to offer Mass for the members of their flock. These pastors are the Holy Father, Cardinal Bishops appointed to suburbicarian sees, residential Bishops, Abbots or Prelates of independent jurisdiction over separate territory, Vicars and Prefects Apostolic, Apostolic Administrators with permanent appointment, Vicars Capitular, parish priests, actual Vicars who rule a parish, temporary Vicars acting fully as parish priests, quasi-parish priests.

The following are not bound, namely, assistants of the aforesaid, chaplains of prisons or hospitals, titular Bishops, religious Superiors, though it is becoming that the latter two should sometimes offer Mass for those subject to them (c. 348, §2).

A Bishop who rules several dioceses and a parish priest who, in addition to his own parish, administers another 01' others, are not obliged to say more than the one Mass on the appointed days (c. 466, §2).

2. The obligation imposed on Bishops and parish priests is that of offering Mass for the people once only on specified days, namely, on each Sunday and holy day of obligation, and on the feasts suppressed before the publication of the Code of Canon Law (1918). These days are set out in the diocesan calendar of the divine office; only one Mass for the people need be said on Christmas Day, or any holy day of obligation that falls on a Sunday (c. 339, §2). In England, Mass for the people must be said on the days enumerated above and on the feasts of S. George, S. Gregory' the Great, S. Augustine, Apostle of England, and S. Thomas of Canterbury'.

3. Vicars and Prefects Apostolic and quasi-parish priests are obliged to say Mass for the people at least on the feast of Christmas Day, the Epiphany, Easter Sunday, the Ascension, Whit Sunday, Corpus Christi, the Immaculate Conception of Our Lady, The Assumption of Our Lady, S. Joseph, Spouse of Our Lady, SS. Peter and Paul, All Saints (c. 306).

4. If a feast day is transferred to a day on which both office and Mass of the feast are transferred and also the obligation of hearing Mass, the Mass for the people is to be said on that day not on the original day (c. 339, §3).

5. The place of celebration must be the parochial church, unless a just cause excuses its being said elsewhere; if the parish priest is absent, he must either celebrate the Mass for the people where he is, or have it celebrated by the priest who takes the parochial duties. The obligation < is personal not local; the Mass must, therefore, be said by the parish priest himself unless he is legitimately prevented, in which case he must have it said by another priest; if that is not possible, he must say it himself later on. Frequent violations of these obligations are a serious sin unless a just cause excuses.

SECTION 2. The Obligation Derived from Mass Offerings (cc. 824-844)

1. The practice of taking Mass offerings is not simoniacal since the offering is made for the maintenance of the celebrant of the Mass, even if he does not need the offerings; nor is it simoniacal if a priest applies a Mass for a stipend chiefly with a view to receiving the stipend for it, though he would not have celebrated Mass unless a stipend was offered.

2. It is in accordance with the practice of the Church for a priest to receive an alms or stipend for applying Mass. But if a priest celebrates Mass more than once on a given day, and if he applies one of the Masses to fulfil an obligation of justice, he may not, without express permission, accept a stipend for any other Mass to be said on

that day by him, unless the stipend is offered on account of some reason other than the application of the Mass. An exception to this rule of not taking a stipend for a second Mass as explained, is made in favour of Christmas Day, on which day a pastor must say Mass for his people, but may receive stipends for his second and his third Masses if he says three on that day, or for his second, if he says only two; those who are not pastors may accept a stipend for each Mass said on that day. On All Souls' Day, a priest may say three Masses, and may receive a stipend for one only, but he may receive an alms for his second or his third Mass, on an extrinsic title, if such exists (P.C.C.J., Dec. 13, 1923). If he says two Masses only, he may receive a stipend for one only; if he says one Mass only, he may receive a stipend for it. If he says three, one must be said for the Holy Souls, the second for the Pope's intentions. If he says only two, one must be applied to the Holy Souls.

3. It is not permitted to celebrate and apply Mass for the intention of that person who will ask, but has not yet asked, for Mass to be applied for a stipend, and to keep the stipend given subsequently to the celebration of the Mass.

4. It is not permitted to accept a twofold stipend for the application of one and the same Mass, nor to accept a stipend for the celebration of a Mass and another stipend for its application, unless it is evident that the additional stipend was given for the celebration apart from its application.

5. Masses must be celebrated and applied in accordance with the number of stipends, even if small, that have been given and accepted.

6. If Mass stipends have been lost, the obligation of saying the corresponding Masses persists.

7. There are three varieties of stipends. Manual stipends are those passing, as it were, from the hand of the donor to the hand of the priest out of personal devotion, and those due to a priest in consequence of an obligation in perpetuity of making Mass offerings imposed upon his heirs by a testator. Stipends are equivalently manual *(ad instar manualium)*, if derived from the interest of funded capital, when the Masses due to be said cannot be said in the place designated, or by those who, by the terms of the foundation, had to say them, but the Masses are entrusted to other priests. Other stipends derived from the interest of funded capital are called foundation stipends and the corresponding Masses are called foundation Masses.

SECTION 3. Certain Rules Regarding Mass Stipends

i. If offerings have been given and accepted for the application of Mass without any precise number indicated, the number must be

decided in accordance with the regulations in the place of the donor's actual residence, unless he can legitimately be presumed to have wished otherwise.

2. It is the right and duty of the local Ordinary to fix for his diocese the amount of the offering for a Mass which the faithful are expected to make. A priest may ask for the statutory amount but is not allowed to exact more.

3. If no arrangement has been made by the Ordinary, the custom of the place must be observed. In England, the stipend is five shillings, but custom sanctions half that sum in the case of poor persons. Exempt Religious must observe both the diocesan rules and the custom.

4. If a large offering is made, it may be accepted; if an amount less than the fixed sum is offered, it may be accepted unless the Ordinary7 has forbidden it. But if a priest had exacted more than the fixed sum for the mere application of Mass, excluding any extrinsic title he might have, such as that of travelling expenses, he would sin against both justice and obedience and is bound to restore the excess.

5. The donor of a stipend is to be presumed to have asked only for the application of the Mass, but if he expressly designated some circumstances to be observed in the celebration of the Mass, they must be fulfilled by the priest who accepted the stipend on such conditions.

6. If the complete number of Masses corresponding to the offerings made cannot be celebrated, it may be reduced only by the Holy See; the deficit is made up from the spiritual treasury of the Church. Application is made to the Sacred Penitentiary.

7. When the income for foundation Masses has entirely lapsed without any fault on the part of the priest who had to celebrate the Masses, all obligation ceases. If, however, the income has decreased or devaluated and the number of Masses to be celebrated had not been specified, either the diocesan standard may be taken to determine the number, or that stipend may be taken which had been assigned by the founder.

8. Every priest must keep an accurate list of the Mass intentions which he undertook and fulfilled. The local Ordinary in the case of secular priests, and the religious Superior in the case of Religious, have the right and duty to see that Mass obligations are fulfilled. Rectors of churches and other pious places, whether secular or religious, where Mass stipends are received, must enter in a special book the number of stipends accepted, the intentions for which the Masses are to be said, the offerings accepted and the dates of celebration. These matters are to be looked into by the Ordinaries or their deputies every year.

9. When local Ordinaries or religious Superiors assign Masses to be said by their subjects or others, the details must be entered at

once in a special register in chronological order, and they must see that the distributed Masses are said as soon as possible.

10. The omission, without a just reason, of even one Mass which had to be said for a stipend is a grievous sin, except perhaps in the case when a large number of Masses had to be said for one and the same intention. If a Mass had not been said when it ought to have been said for a stipend, the offering must be restored. This duty *of* restitution would be grave only if the offering had been a large one, relatively or absolutely.

SECTION 4. The Time for Celebrating Stipend Maeses

1. If the time had been expressly determined by the donor of the stipend, that time must be observed.

2. If the donor of the stipend had not determined the time:

(a) Masses which have to be applied for an urgent cause must be celebrated as soon as possible, lest the purpose may have ceased to exist before the Masses are said.

(ά) In other cases, stipend Masses must be celebrated within a shorter or longer time proportionately to the number of Masses which had to be said for the same intention. A practical rule is given by authors, based on the decree *Ut Debita,* 1904, namely, that one Mass should be said within a month from reception of the stipend, and one hundred Masses for the same intention within six months; but if several donors give stipends, each for one Mass, the Masses must be said within a month. Precise determination for the saying of fewer than one hundred Masses for the same intention is left to the judgment of the priest. Some authors suggest a period of two months for twenty Masses, three months for forty Masses, all being given by the one donor, or for the same intentions. It is not certain that the aforesaid decree *Ut Debita* is still preceptive.

(c) If a priest has to distribute manual Masses to be celebrated by others, he must do so as soon as possible. The obligation of the recipient of the stipends begins from the date of his receiving the stipend and undertaking the obligation, unless the contrary is obvious.

(d) In churches in which manual Masses are so numerous that all of them cannot be said within the required times, the faithful are to be notified by a notice posted up in some public and accessible place, that the Masses will be celebrated in the said church when conveniently possible, or elsewhere. A notice posted up in the sacristy is sufficient.

(e) If the donor of a stipend had expressly left the time of celebrating the Masses to the good pleasure of the priest, the latter may celebrate them when he pleases, except that he is not allowed to receive

Mass obligations to be fulfilled by himself which he cannot fulfil within a year, but probably the donor may freely assign a longer limit of time than one year.

(/) AU administrators of pious causes, and ecclesiastical and lay persons who, in any way, are obliged to fulfil Mass obligations, must, at the end of each year, transfer to their respective Ordinaries, in the manner these shaU decide, all the Mass obligations which they have been unable to fulfil. But the year is to be computed in the case of stipends not founded but equivalently manual, as the year during which these obligations had to be fulfilled. In the case of manual stipends, the year is to be understood as the year from the date on which the obligation was undertaken. If only a few Masses remain to be said after the year has expired, the priest who received the stipends may himself celebrate the Masses, provided that they are said when they can be applied for the cause for which they should have been applied.

SECTION 5. Transference of Mass Stipends

1. Those who are empowered to transfer Mass obligations to others may transfer them to priests known by them to be completely reliable, or to those recommended by their own Ordinary. Transference to priests of the Oriental rite must be made through the Sacred Congregation for the Oriental Church or the Apostolic Delegate or the Ordinaries.

2. When Mass obligations are legitimately transferred, the person transferring them remains subject to his obligations until he has received word that the obligations have been accepted and the stipends received. The original obligation on the sender has then ceased.

SECTION 6. Retention of Part of Stipend

1. In the case of manual stipends transferred, the whole amount must be transferred, unless the donor has expressly allowed part of it to be retained, or it is clearly manifest that the excess, if any, over and above the diocesan standard was a personal gift, pr for some specific pious cause as a shrine or orphanage.

2. In the case of Masses that are equivalently manual, the excess may be legitimately retained, unless such is contrary to the founder's wishes, and it is sufficient to transmit the manual stipend ruling where the Mass is to be celebrated, provided that the larger stipend takes the place of part of an endowment, or gift to a pious cause. This would usually happen where a shrine has been endowed with a capital sum of money and the Masses cannot be said at the shrine.

3. A generous stipend may be regarded as a personal gift in view of the poverty of the donee, friendship, gratitude, or dignity.

4. Since visiting priests sometimes celebrate Mass in churches to which they do not belong and may do so for a considerable time, it is reasonable that a charge be made for incidental expenses. In such cases these priests are expected to contribute a little money for candles, wine, vestments, and service, but only if the church is poor; the Ordinary may allow a moderate charge to be exacted (c. 1303, §2).

5. One who transfers a Mass stipend but retains part of the original one which he should have transferred wholly, sins gravely against justice if the sum is grave; he is obliged to restore what he kept to the celebrant of the Mass.

6. For a just reason a priest may exchange a Mass obligation with another priest, retaining his own stipend though larger than the stipend which the other priest received from a donor.

SECTION 7. Trafficking in Mass Stipends

All appearance of making a business out of Mass stipends and of employing exchange and barter in regard to Masses and stipends must be entirely absent. Such bartering would take place if a book-seller collected stipends and bartered books for them, which he handed to the priest for Masses to be celebrated by him. The same would be true of bartering papers and magazines for stipends collected by the bookseller. Such procedures have been expressly forbidden. It is not, however, forbidden to offer a priest the equivalent of money in books or papers, if he is willing to accept them for the application of Masses.

SECTION 8. Some Circumstances of Moss Celebration

1. Unless some condition has beçn laid down as to the kind of Mass to be said for a stipend, a Mass obligation can be fulfilled by saying a Saint's Mass for the dead, or a Requiem for any intention, but it is more becoming to say a Mass in accordance with the nature of the intention for which the Mass is to be said.

2. A Mass asked for in honour of a Saint need not be the votive Mass of the Saint, unless the donor of the stipend so wished.

3. A priest who accepts a stipend to say Mass at a privileged altar for a soul in Purgatory is bound to say it at such an altar. If he has inadvertently not done so, it is probable that he fulfils his obligation by obtaining a plenary indulgence applicable to the Holy Soul. A Requiem Mass at such an altar is not necessary unless the donor so wished. An additional stipend may not be demanded for Mass celebrated at a privileged altar.

4. The series of thirty Masses entitled Gregorian is a series of Masses celebrated on thirty consecutive days for the soul of one departed. This series may be legitimately interrupted by the last three days of Holy Week, and whenever the Pope orders a Mass to be celebrated for some special purpose. If the series had been illegitimately or inadvertently interrupted, it must be repeated from the beginning, unless condonation by the donor of the stipend can be reasonably presumed, or a composition obtained from the Holy See.

5. A newly ordained priest celebrates the ordination Mass together with the ordaining Bishop. He may accept a stipend for it.

6. The Nuptial Mass need not be offered for the newly married who have just been wed, unless an offering has been made by them or in their behalf.

CHAPTER XIV

THE MINISTER OF THE HOLY EUCHARIST
(cc. 845-852)

I. Priests are the ordinary ministers of Holy Communion. A deacon is the extraordinary' minister, acting with the permission of the local Ordinary or the parish priest, which is to be granted for a grave reason. In cases of necessity, the permission is legitimately presumed. The deacon should give the usual blessing with his hand after administration outside Mass (P.C.C.J., July 13, 1930).

2. Holy Communion may be administered at the Communion during Mass, and if the Mass is a private one, immediately before or after it, exception being made in the case of a private oratory if the local Ordinary forbids it. It may not be administered by the celebrant vested for Mass immediately before or after a High Mass, a sung Mass, or a conventual Mass except for a grave reason (S.R.C., Jan. 19, 1906).

3. Holy Communion may be administered outside Mass by those priests who are attached to the church in which it is administered, and by other priests also with the permission, at least presumed, of the Rector of the said church.

4. Whilst administering Holy Communion during Mass, the celebrant may not administer it in places whence he cannot see the altar, unless he is doing so inside the church itself where pillars, etc., may quite possibly obstruct the view of the altar. He may take Holy Communion during his Mass to the sick in rooms near the chapel, if he can see the altar from the rooms.

A lay person may carry and administer Viaticum in cases of

urgency to the dying. In times of persecution, this faculty has been granted for giving Holy Communion, as in Russia (1930) and Mexico (»935)·

6. A priest or deacon may administer Holy Communion to himself even for the sake of devotion if no other priest is present.

7. Any priest may take Holy Communion to the sick privately with at least the presumed permission of that priest who has the custody of the Blessed Sacrament. This precludes the necessity of carrying the Blessed Sacrament from churches other than those in whose parish the sick person resides. But whenever Holy Communion is taken or given to the sick, the reverence and decency due to so great a Sacrament must be carefully observed in accordance with the prescriptions of the Apostolic See. The method of carrying the Blessed Sacrament to the sick will be explained later.

8. Holy Communion is to be administered in accordance with the rite proper to the priest who gives it, in fermented or unfermented bread as the case may be. But in a case of necessity, and where a priest of the proper rite is not available, a priest who uses fermented bread may give Holy Communion under the unfermented species, and *vice versa,* but must observe his own rite in its administration.

9. In the Latin Church, Holy Communion is to be given only under the species of bread.

CHAPTER XV

CONDITIONS OF RESERVATION AND ADMINISTRATION (cc. 1265-1271)

SECTION 1. Reservation

i. The most Holy Eucharist is reserved in accordance with the following rules provided that someone has charge of it and if, as a general rule, Mass is celebrated in the place of reservation at least once each week.

(a) The Holy Eucharist must be reserved in cathedral churches, in the principal church of Abbots' and Prelates' territory *(nullius),* of Vicariate and Apostolic Prefecture, in every parochial and quasi-parochial church, in the church attached to the house of exempt Religious, men or women. It may be reserved with permission of the Ordinary in view of an immemorial custom in subsidiary churches that have curates *(curatae ecclesiae),* though these are subsidiary churches or chapels of ease (P.C.C.J., May 20, 1923).

(b) It can be reserved with the permission of the local Ordinary in a collegiate church and in the principal oratory, whether public or semi-public, of a pious or religious house, whether secular or religious. If a pious or religious house is connected with a public church and the community makes use of the church for their daily exercises of piety, the Blessed Sacrament may be kept there only; otherwise it may be kept in the principal oratory of the said house—without prejudice to the right, if any, of the church—and nowhere else. But if, in the same material building, there are distinct and separate communities, so that they formally constitute distinct houses, it may be reserved in both places (P.C.C.J., June 3, 1918). It may not be reserved in a convent of nuns within the choir or precincts of the monastery, nor in any religious or pious house except in its church or principal oratory.

(c) Reservation in other churches or oratories requires an Apostolic induit, but the local Ordinary can grant the faculty to these churches or public oratories for a just reason and on occasions *[per modum actus).*

(d) No one may keep or carry the most Holy Eucharist with him on a journey.

(‹*) Churches in which the Blessed Sacrament is reserved, especially if parochial, must be open to the faithful for at least some hours daily.

(/) The Blessed Sacrament is not to be reserved continuously and habitually at more than one altar of one and the same church. It is permitted to take the consecrated ciboria to other altars for the more convenient distribution of Holy Communion. In chapels where there is perpetual adoration, the Blessed Sacrament should be available also at another altar besides the altar of exposition for distribution of Holy Communion (S.R.C., May 18, 1878).

(g) The Blessed Sacrament must be reserved in the most excellent and honourable place in the church, and therefore, as a general rule at the high altar unless other provision is made for its more convenient and befitting worship and veneration, always, however, without prejudice to the liturgical rules to be observed during the last three days of Holy Week.

(A) In cathedral, collegiate, or conventual churches, where the choral services are held before the high altar, it is expedient that the Blessed Sacrament should, as a general rule, be reserved not at the high altar but at another one.

(:) Rectors of churches must see that the altar of reservation is more elaborately decorated than the other altars, so that the people may be moved to piety and devotion.

(j) The local Ordinary may, for a good reason, allow the Holy Eucharist to be reserved during the night outside the altar in a very safe and befitting place, resting on a corporal. A lamp must be burning before It whilst It is there. The place recommended by an Instruction

of the Sacred Congregation of the Sacraments (May 26, 1938) should be a solid and well-closed box let into the wall of the church or sacristy; but it may also be kept in some private place if that is more secure. As a general rule, the priest who removes the Blessed Sacrament should wear a cotta and stole and be accompanied by a cleric carrying a light. Minute precautions against burglary at night must be taken. The doors of the church should be strong and capable of being opened only from the inside of the church, the windows being fitted with bars. The church should be examined before being locked up. It is suggested that electric bells be so fitted as to ring when the church doors are opened, or the tabernacle or altar touched, or that the church should be automatically lit up when any of these things happen.

2. The Sacred Hosts for Holy Communion and Viaticum are to be reserved in a ciborium (pyx) made of strong and suitable material (cf. c.x., n. 22 *supra*).

SECTION 2. Administration of Holy Communion to the Sick (cc. 847-850)

1. Holy Communion must be taken publicly to the sick unless some just reason suggest otherwise. It is customary in this country not to use soutane and surplice when giving Holy Communion to the sick in their own homes or in non-Catholic hospitals.

2. It is the right and duty of the parish priest to take Holy Communion to all the sick in his parish; other priests may do so in cases of necessity, or with the permission, at least presumed, of either the local Ordinary or the parish priest. Outside cases of necessity, it is permitted to any priest to take Holy Communion to the sick privately with the permission, at least presumed, of that priest who has the custody of the Blessed Sacrament.

3. A religious Superior has the right to administer privately Holy Communion (including of course Viaticum) to professed subjects and novices, even outside the religious house, and to lay people staying in the religious house day and night for purposes of education, service, sickness, or hospitality.

4. The parish priest has the exclusive right to take Viaticum to the sick in his parish; it is considered probable that this applies only to the first administration of it, so that once it has been administered, any other priest may administer it in cases of necessity and also outside cases of necessity as stated above; the right of the religious Superior as stated above, remains intact. Nevertheless if Holy Communion or Viaticum had been given by a priest other than the parish priest, right order demands that the parish priest should be told of the fact, that he may be guided in his subsequent treatment of the sick.

5. Ordinaries are urged not to be too rigorous in refusing permission for private Holy Communion to the sick, lest they withhold from them the solace of receiving even daily (S.C. de Sacr., Jan 5, 1928).

6. If a priest has to make a journey that is long or difficult to the house of a sick person, or if he has to ride or drive, he must enclose the sacred host in a vessel (pyx), placed in a burse secured by cords hanging round his neck and tied round his breast, so that the Holy Eucharist may not fall or be shaken. In this country the burse is usually put into an inner pocket, its cord being put round the neck and a stole worn under the coat. This procedure is customary' in this country when Holy Communion is taken to the sick in their homes, or in hospitals.

CHAPTER XVI

THE SUBJECT OF THE HOLY EUCHARIST
(cc. 853-866)

SECTION 1. Those Who May Receive the Holy Eucharist

1. Anyone baptized can and should be allowed to receive the Holy Eucharist, unless forbidden by law to do so. Prohibiting law may be divine or ecclesiastical. The Baptism here meant is Baptism by water.

2. Although every baptized person is, by divine law, capable of receiving the Holy Eucharist, the Church can determine the application of divine law and can establish its own laws of reception. The following points are noteworthy:

(a) Those are excluded who never had the use of reason, such as infants, and lunatics from birth.

(5) Those mental defectives who are occasionally rational may receive during their sane intervals, if they fulfil the necessary conditions.

(r) Raving lunatics must be excluded, except probably at the hour of death, provided that there is then no danger of irreverence.

(d) Those who are mildly defective may receive whenever they appear to be in fitting dispositions.

(*) The Holy Eucharist may not be administered to sick persons who are suffering from continual vomiting; but between their paroxyms it may be administered if there is good hope of its being likely to be retained.

(/) Continual coughing also precludes reception except during free interval if there is good hope of the Sacred Host being retained.

(g) Persons apparently possessed by the devil may receive Holy Communion if there is no danger of irreverence and if they are in fitting dispositions.

(A) Holy Communion may not be given to the unconscious nor to those who are dying impenitent or in despair.

3. Those are to be refused Holy Communion who are patently unworthy public sinners, as the excommunicated, the interdicted, those who are notoriously infamous in law or fact, those who are living in concubinage, those married outside the Church until the marriage has been publicly rectified (but a confessor may allow these to receive Holy Communion where they are not known, provided that they do not cohabit in their invalid marriage), those who belong to a forbidden society, those engaged in sinful occupations. All such persons are to be excluded from Holy Communion, unless their penance and emendation are certain and, in case they have given public scandal, after they have made public reparation.

4. Those who are guilty of secret unforgiven sins which should exclude them from Holy Communion must be excluded from it, if they seek to receive secretly and are known to the priest not to have amended their ways; this prohibition would not, of course, apply if the sins were known from their confession. If, however, such persons approach the altar publicly, they must be given Holy Communion, for they cannot be refused without scandal, or defamation of their character.

SECTION 2. Reception of Holy Communion by Children

1. Holy Communion may not be administered to children who, owing to the tenderness of their age, have no knowledge of or desire for the Sacrament. But it may and should be given to them when they are in danger of death, if they are able to distinguish between the Body of Christ and common food and can reverently adore the Sacrament.

2. For reception of Holy Communion outside that danger, a child must have a fuller knowledge of Christian doctrine, and must be carefully prepared for reception by being taught, suitably to its age and capacity, those mysteries of the faith which are necessary for salvation, and how to receive Holy Communion devoutly in accordance with its mental age.

3. The confessor is in the first instance to be the judge of a child's sufficient preparation, and after him, its parents or guardians.

4. But the parish priest has a duty of seeing that children do not approach the Holy Table before the use of reason, or without sufficient dispositions, and he may, if he thinks fit, examine them as to their

knowledge and dispositions. Furthermore, it is his duty to take steps that children who have reached the use of reason and are sufficiently disposed should receive this divine food as soon as possible.

SECTION 3. Disposition of Soul Necessary for Holy Communion (c. 856)

1. The state of grace is necessary and it must be acquired by sacramental absolution, unless no confessor is available, and at the same time there is some urgent necessity of reception, in which case an act of contrition for mortal sins must be made.

2. The confession here prescribed is the confession of mortal sins committed since the previous good confession. Mortal sin forgotten in confession is indirectly forgiven if the penitent had universal sorrow extending to all mortal sins; in that case, such a penitent, being in the state of grace through sacramental absolution, is not obliged to confess again before receiving Holy Communion, even repeatedly, but he may be wisely advised to do so. But if he confesses and remembers the mortal sin which he had forgotten in the previous confession, he is bound to confess it, unless there is a just reason for withholding it, as will be explained later.

3. One who is in serious doubt as to being in mortal sin before reception of Holy Communion, if the doubt does not amount to moral certainty, is not obliged to confess, but is to be strongly urged to do so, or at least to make an act of contrition.

4. The necessity of receiving Holy Communion when a confessor is not available, must be serious, as, for example, if omission of Holy Communion would entail serious defamation or scandal, or if a priest had begun to say Mass and, though remembering his mortal sin, could not discontinue, or if a lay person was already at the communion rails and could not withdraw without scandal or defamation.

5. A confessor is considered not available in the following cases which may serve as typical examples:

(a) If there is no confessor at all, or if an absent confessor cannot be approached without serious inconvenience. This inconvenience is, of course, relative. An hour's journey in order to get a confessor is a serious inconvenience.

(ά) If confession cannot be made without grave harm ensuing to another, as, for example, to an accomplice in sin, or a parent, child, consort, or fiancé (fiancée).

(c) If confession cannot be made without such grave personal inconvenience to the penitent as is extrinsic to the act of confessing, that is, an inconvenience not implied in the mere fact of confessing grievous sins, for that amount of inconvenience, if such is felt, is intrinsic

to confession. In this context, it is probable that an almost overpowering sense of shame or abhorrence felt in confessing to a particular confessor would excuse. Thus a mother would feel such abhorrence in confessing certain sins to her son, and a sister to her brother. Such abhorrence is extrinsic to the aforesaid confessions, not to confession as such.

6. If a priest has celebrated Mass without confessing a mortal sin committed since his last confession, because he could not approach or find a confessor, but had made, as he is bound to make, an act of contrition, he is obliged to confess as soon as possible, that is, within three days, unless the same excusing circumstances persist. But we may not hold the view, for it has been condemned (Pope Alexander VII, pr. 39), that the term, as soon as possible, may be taken to mean when the said priest makes his customary' confession at the usual time. The obligation does not, however, affect the priest who inculpably forgot a mortal sin in his previous confession and celebrated Mass without confessing, nor does it affect the priest who, unfortunately, celebrated sacrilegiously, because he did not confess his mortal sin when he could have done so, or if he did not make the necessary act of contrition.

7. No one may receive Holy Communion twice on the same day, unless the danger of death supervened after Holy Communion, or unless additional reception is necessary to safeguard the Blessed Sacrament from profanation. Of course, a priest may receive Holy Communion at each of the Masses which he celebrates when binating or on Christmas Day, or All Souls' Day, when he celebrates more than once.

SECTION 4. Frequent Holy Communion
(cf. S.C.C., Dec. 20, 1905; c. 863)

1. It is the desire of Our Lord and of His Church that all the faithful should receive Holy Communion daily, in order to derive from it strength to curb concupiscence, to extinguish the venial sins of daily occurrence, and to guard against grave sins to which human frailty is liable. Daily Holy Communion is not directed primarily to honouring Our Lord, or receiving the reward of virtue.

2. For the daily reception of Holy Communion, nothing more is required in the soul of the recipient than the state of grace and a right and pious intention. This intention is the wish to please God, to be united with Him more closely by love, and to use this divine medicine to remedy defects and weaknesses. To receive daily out of routine, or for vain glory, or to please others, are not right intentions.

3. Though freedom from mortal sin together with the resolution not to sin mortally again are sufficient for daily reception, nevertheless

it is very proper that daily communicants should be free from fully deliberate venial sins and all affection for them. Greater fruit is derived from Holy Communion the better the dispositions of the recipient, and therefore careful preparation should precede and fitting thanksgiving follow reception, in accordance with each one's strength, condition of life, and duties.

4. Parish priests, confessors, preachers, Superiors of seminaries and of religious houses, should urge their subjects to receive Holy Communion frequently, without prejudice to their entire liberty to abstain, lest sacrilegious Communions be made. An instruction of the Sacred Congregation of the Sacraments (Dec. 8, 1938) prescribed that the term General Communion should not be employed unless its true meaning is explained, namely, that all are invited to Holy Communion, but that it is left to individuals to receive or not as they' wish, and that no one is to be forced to receive Holy' Communion on such occasions. If anyone wishes not to receive Holy Communion, no difficulty should be put in the way, such as explicit invitations, military regimentation, as it were, and the use of emblems by communicants. It is the confessor who in the first place should be the judge of a case of daily Holy Communion, and he must advise the penitent in accordance with the mind of the Church. Superiors of seminaries and colleges and Superioresses of nuns may not assume the role of confessors, though in a case of grave scandal given to a community, or of a grave external fault committed by a subject, he or she may' be forbidden to receive Holy Communion until confession has been made (c. 595, 3, §3).

5. Holy Communions prescribed by religious rule are directive, not preceptive, and their number should be regarded as a minimum.

SECTION 5. Bodily Dispositions (c. 858)

1. One who has not observed the natural fast, that is, complete abstention from both food and drink from the preceding midnight, may not receive Holy Communion, except in danger of death, or the necessity of precluding irreverence to the Blessed Sacrament, or with dispensation granted by the Superior or by law (cf. sect. 6, n. 2 *infra*).

2. If Holy Communion is to be received at a midnight Mass, the prescriptions of the local Ordinary as to the duration of the preceding fast must be observed.

3. Midnight may be computed in accordance with local apparent or true solar time, or mean local time, or legal time, as Greenwich Mean Time, or summer time, or regional time, or any other approved time (c. 33, §1). But although one system of time, e.g. G.M.T., has been adopted for a specific procedure, a different system may be

adopted for another procedure formally different. The three Christmas Masses arc not to be regarded as formally distinct acts (P.C.C.J., May 29, 1947).

4. The obligation of the eucharistie fast is grave; there is no light matter which would be only a venial sin.

5. That the law of the fast may be said to have been violated, three rules are laid down:

(a) What is taken must have been taken from outside the mouth and have passed into the stomach.

(b) The thing taken must have the nature of food or drink.

(c) The thing taken must have been taken in the way of eating or drinking, not as saliva, or by respiration.

Examples

(i) The fast is not violated by swallowing blood from gums or mouth internally, nor from sucking blood from a cut finger if the blood is not swallowed.

(ii) The fast is not violated by swallowing the remnants of food in the mouth or between the teeth, if the food had been taken before midnight. But it is violated if sweets, such as a lozenge or toffee, are put into the mouth before midnight and slowly dissolved after midnight. The exception in favour of a lozenge which should quickly dissolve is, we think, not admissible.

(iii) Holy Communion is permitted though a small drop *(stilla) of* water has been accidentally swallowed when washing the teeth or mouth, even if it is not wholly mixed with the saliva; the law is not violated if accidentally a drop or two of rain or blood or tears are swallowed with the saliva, nor if small particles of dust, or a fly, or tobacco juice mixed with the saliva are accidentally swallowed, nor if some water remain in the stomach after flushing with a stomach pump, even if this is smeared with oil.

(iv) Things that are neither food nor drink, nor considered to be such in common opinion, do not violate the fast, such as silk, wool, wood, chalk, paper, paraffin, the last of which undergoes no change in the digestive tracts.

6. It is only the certain not the doubtful violation of the fast which precludes one from receiving Holy Communion.

SECTION 6. Non-fasting Reception of Holy Conununion

Non-fasting Holy Communion may be received as follows:

1. In danger (even probable) of death from any cause.

2. In illness, which has confined a sick person to his bed or room for a month without prospect of recovering soon, dispensation by law

being given, only if the sick person had taken medicine or liquid, and for non-fasting communion not more than twice a week, with the confessor's approval.

3. In necessity of completing the sacrifice.

4. To consecrate a host for Viaticum.

5. To fulfil the paschal precept if it cannot otherwise be fulfilled (but an induit should be sought).

6. In danger of grave harm, scandal, or defamation, as in the following cases:

(λ) When Mass must be continued by a non-fasting celebrant.

(ά) Where a public Mass must be celebrated for the people to fulfil their obligation.

(r) When one cannot refrain lest he defame himself.

(d) When a newly ordained must celebrate his first Mass after inadvertently breaking the fast, to avoid scandal or defamation.

(ς*) When a child is to receive first Holy Communion in order to avoid very' great confusion or scandal.

(J) When one has an Apostolic induit to take liquid nourishment or medicine before reception.

(g) When the Blessed Sacrament must be safeguarded from profanation.

(Λ) When a child under seven years of age receives Holy Communion. Some authors hold this view, because the fast is imposed by Church law. But the view should not be acted upon nor taught, owing to likely scandal.

(i) The hierarchy have faculty to dispense nurses, expectant or nursing mothers, and those who are over sixty years of age. For such dispensations the parish priest must be consulted.

SECTION 7. Circumstances Regarding Holy Communion

1. A quarter of an hour of thanksgiving should normally elapse before food or drink is taken after reception of Holy Communion.

2. Great reverence is to be shown in receiving Holy Communion. This reverence is both internal and external. The dress which is becoming in recipients of Holy Communion is determined by the practice of good Catholics of the place, sometimes by express regulations of the local Ordinary.

3. Marital intercourse, when necessary or reasonable, is not an obstacle to worthy reception of Holy Communion, nor is indeliberate pollution. If venial sin was committed, it should be repented. If mortal sin was committed, it must be confessed and absolved, as stated above. If the imagination remains in a disturbed state obsessed with impure pictures, or if the bodily senses are disturbed with sexual

reactions, they should be repressed, as far as possible. In the case of grievous sexual sin committed and confessed, reception of Holy Communion or abstention from it is left to the prudent judgment of the confessor (Missal, *de Defect.,* ix. 5).

CHAPTER XVII

THE DUTY OF RECEIVING THE HOLY EUCHARIST
(cc. 859-866)

SECTION 1. Duty Imposed by Divine Law

1. The words of Christ Our Lord: "Except you eat the flesh of the Son of man, and drink His blood, you shall not have life in you" (John vi. 54), express a divine positive command of receiving Holy Communion.

2. This obligation must be fulfilled in danger of death, and sometimes during life. The Church determines the frequency by the law of paschal Holy Communion. It must also be received when, if it were not received, some grave temptation could not be overcome, a contingency which is rare.

3. There is no obligation of divine or ecclesiastical law that lay persons of the Latin rite, or Latin priests receiving outside their own Mass, should receive under both kinds. The Council of Trent thus expressed the matter: "Under each species taken by itself, Christ whole and entire and the true Sacrament are received, and therefore so far as the fruit of the Sacrament is concerned, those are not deprived of any grace necessary for salvation who receive only one species": "If anyone shall say that all and each of the faithful must receive both species of the Most Holy Eucharist by divine precept, or as a necessary means of salvaiion, let him be anathema" (sess. xxi, c. 3, can. 1).

4. A sacrilegious communion does not fulfil either the divine or the ecclesiastical precept.

SECTION 2. Duty Imposed by Ecclesiastical Law

I. "All the faithful of each sex, arrived at the age of discretion, that is, the use of reason, are bound to receive the Sacrament of the Eucharist at least once a year and that at Easter, unless it happen that their priest judges that they should abstain from reception for a time owing to some reasonable cause" (c. 859). The Easter time determined for the fulfilling of this precept runs from Palm Sunday to Low Sunday,

both days included, but it is permitted to local Ordinaries, considering the exigencies of persons and places, to allow this time to be anticipated by their subjects, but not before the fourth Sunday of Lent, or to be extended, but not beyond the feast of the Most Holy Trinity. Particular induits are sometimes granted for extending the paschal times.

2. If paschal communion has not been received during the proper time, the obligation of receiving it must be fulfilled within a reasonable time. A short delay is not sinful. If reception has not taken place up to the end of the civil year (Dec. 31), it appears probable that Holy Communion need not be received before the succeeding Easter time.

3. One who foresees that reception will not be possible during Easter time is not obliged to receive before Easter time, but if reception will not be possible during the later weeks of Easter time, Holy Communion must be received, if possible, during the earlier part of that time; if that is not possible, it must be received after Easter time as stated above.

4. There is no strict obligation to receive paschal Holy Communion in one's parish church, but the canons advise it; if received in a parish other than one's own, the proper parish priest should be told. This is a counsel not a precept.

5. The age for fulfilling the paschal precept is the same as the age for making first confession, that is, the seventh year completed (P.C.C.J., Jan 3, 1918, private), unless the use of reason has come before that age, in which case both precepts bind from that moment; they do not, however, bind until the use of reason has been attained, even if after the seventh year. The Church obliges those who have the care of children, that is, parents, guardians, confessors, teachers and parish priests, to see that those under their charge confess and receive paschal Holy Communion at the proper time.

SECTION 3. Holy Viaticum

1. Holy Viaticum must be received, if possible, by one in danger of death from any cause whatever; this is a divine precept. It should be received soon, lest death supervene before reception and it must be administered while the dying person is fully conscious.

2. Viaticum must be received in the rite of the recipient and administered by the parish priest or his delegate, but in urgent necessity, any priest may administer it in any rite.

3. Dying children, if they have sufficient discretion to distinguish between the Body of Christ and common bread, must be given Viaticum even if they had not previously made their first Holy Communion. Consequently such children should make their confession, be given Holy Communion, Confirmation, Extreme Unction, and the Last Blessing.

4. During dangerous sickness, Holy Viaticum may be given every day in accordance with the prudent counsel of the confessor.

5. If Holy Communion had been received on the day on which, later in the day, a person fell into the danger of death, reception of Holy Viaticum is urged but not imposed. Similarly there does not seem to be an obligation to receive Holy Viaticum if Holy Communion had been received a few days before the danger of death supervened.

CHAPTER XVIII

TIME, PLACE, MANNER AND RITE IN ADMINISTERING HOLY COMMUNION
(cc. 867-869)

SECTION 1. Day and Hour

1. Holy Communion may be administered on any day of the year, but on Good Friday only as the Viaticum which is prescribed, namely, Viaticum received the first time during dangerous sickness, not repeated Viaticum. On Holy Saturday, Holy Communion may be given only during the divine office, or immediately after it in the church in which divine office had been celebrated; a priest other than the celebrant of the office may then administer it. The prohibition is not considered so severe as to preclude Holy Communion being taken from the altar of celebration to the sick under the same roof, or in the same building as the church or chapel.

2. Administration of Holy Communion may take place only during those times when the sacrifice may be offered, unless some reasonable cause excuses. Viaticum may be given at any time, day or night.

3. Since Mass is permitted at midnight on Christmas Eve, Holy Communion may be administered at that Mass, unless the local Ordinary has forbidden it (P.C.C.J., March 16, 1936).

4. Holy Communion may be given by the priest vested for Mass, immediately before or after private Mass, but not before a Solemn, sung, or conventual Mass except for a grave reason (S.R.G., Jan. 19, 1906).

SECTION 2. The Place

Holy Communion may be administered wherever it is permitted to celebrate Mass, even in a private oratory, unless the local Ordinary has, for a just reason, forbidden it to be received there. If the local

Ordinary' permits, it may be administered to people who live in mountainous villages whenever Holy Communion is taken to the sick, provided that it is administered in a suitable place. It may also be administered under the same restrictions to those who wait upon the sick in the homes of the latter or hospitals. The same persons may also confess in these places, provided that the safeguards of canons 909, 910 are taken with the approval of the Ordinary (S.C. de Sacr., July 29, 1927).

SECTION 3. The Prescribed Manner

1. If Holy Communion is given apart from Mass in a church, the priest must be vested in cassock, cotta and stole, the colour of which is to be white, or that of the office of the day, but instead of black or purple, white must be used. Burse and corporal are required and two altar candles must be lit. Apart from cases of necessity, it is grievously sinful to dispense with both cotta and stole.

2. The Sacred Host must be administered with the thumb and first finger of the right hand of the priest, unless a reasonable excuse exists for using other fingers.

3. An assistant is required under light obligation. In his default, the priest does everything including the recitation of the Confiteor; in convent chapels, a Sister is allowed to recite it.

SECTION 4. The Rite

1. In giving Holy Communion, the entire formula must be recited over each communicant.

2. If Holy Communion is administered to several sick in different rooms of the same building, in the first room all the prayers of the ritual are recited in the plural number and Holy Communion is given to the first sick person; in each of the other rooms are recited the prayers *Misereatur tui,* etc., *Indulgentiam,* etc., *Ecce Agnus Dei,* etc., *Domine non sum dignus,* etc., once, and Holy Communion given to each sick person; in the last room there are added *Dominus vobiscum,* etc., with the prayer in the plural number, and if any host remains in the pyx the blessing with it is given without words and the rest of the prayers are recited as usual in the church (S.R.C., Jan 9, 1929).

3. If a sick person cannot easily swallow the host, a small drop of water may be given with it in a spoon, or after reception. In cases of contagious diseases, the priest should not touch the sick person with hand or clothing, and if the spoon has been used it should be disinfected at once by holding it in the flame of a candle.

4. Opinions differ as to the lawfulness of administering Holy Communion or Viaticum to persons who have to be fed by tube through the oesophagus. It seems certain that there is no obligation either to administer or to receive Holy Communion in such an unusual manner. Though the Sacred Congregation of the Holy Office replied that the procedure was not expedient, authors hold that it may be adopted, if there is no danger of irreverence.

5. For the peace of mind of the sick, the usual formula for giving Viaticum may be replaced by that of Holy Communion.

6. It is not permitted to give in Holy Communion a large host, or several small hosts to the one person, if this is done for the fostering of a false devotion, but it may be done for a reasonable cause after warning the communicant, namely, that the hosts may be the sooner consumed, as in war time, to safeguard the Blessed Sacrament from profanation.

7. If, during distribution of Holy Communion, a Sacred Host falls on the ground, it must be picked up at once and replaced in the ciborium, or on the corporal, and the spot purified with a wetted cloth or purificator, which should not be used again till washed. If a Sacred Host falls on the garment of a communicant, a wetted cloth applied to the part suffices. If it fell within the neckdress of a woman, she must herself find it and receive it. Her fingers should then be purified with a wetted cloth or purificator.

8. The sacred species of bread must be taken as food and therefore swallowed. The more common opinion seems to be that sacramental grace is given only when the host is swallowed; it should not, therefore, be allowed wholly to melt in the mouth. Though this opinion is not certain, the faithful should be instructed to swallow the Sacred Host as soon as possible. Often the consecrated particle adheres to the palate. This can be at least partly obviated by moistening the palate with the tongue before reception.

TREATISE XVI

CHAPTER I

THE NATURE OF THE SACRAMENT
(c. 870)

The sacrament of Penance is that Sacrament by which sins committed after Baptism are forgiven by the judicial absolution bestowed by a legitimate minister on one of the faithful duly disposed for it. The legitimate minister is one who has priestly Orders and jurisdiction. The due dispositions of the person absolved are sincere sorrow for sin, and a firm purpose of amendment.

CHAPTER II

THE MINISTER OF THE SACRAMENT
(cc. 871-892)

SECTION 1. Requisites in the Minister

I. The sacred Order of the priesthood and jurisdiction are essential in the minister of Penance.

2. Ordinary jurisdiction is annexed by law to certain ecclesiastical offices; it is proper, if exercised by the person who holds the office; it is delegated, if granted by law or by one who has ordinary proper jurisdiction.

SECTION 2. The Subject of Ordinary Jurisdiction

1. The Pope has proper and unrestricted jurisdiction over all the baptized.

2. Cardinals have jurisdiction over all members of the Church, but it does not extend to censures most specially reserved to the Holy See, and the censure incurred by revealing secrets of the Holy Office.

3. Local Ordinaries have ordinary jurisdiction over all persons in their respective dioceses and over all their subjects wherever these may be, but it does not extend to reserved papal censures and sins.

The term includes the diocesan Bishop, Abbot and Prelate of independent jurisdiction, Vicar General, Administrator, Vicar and Prefect .Apostolic, and those who by law, or approved constitutions, succeed to the ruling of the territory.

4. Parish priests and those who in law are their equivalents have ordinary jurisdiction to absolve their subjects within or outside their respective territories, and jurisdiction delegated by law to absolve within their territories those who are not their subjects, and by custom, unless the contrary is expressly stated, all within the diocese, but it is restricted in the case of both episcopal and papal reserves.

5. The Canon Penitentiary of a cathedral or a collegiate church has ordinary jurisdiction which he cannot delegate to absolve all within the diocese, subjects outside the diocese, and visitors to the diocese, and it extends to cases reserved to the Ordinary (c. 401, §1).

6. Exempt religious Superiors, both major and local, have ordinary jurisdiction to absolve their subjects anywhere, postulants, novices, and those who are living in the religious house by day and night, as servants, students, guests, the sick, the infirm, the convalescent, but it is restricted in the case of papal reserved sins and censures, unless privilege extends to these.

SECTION 3. Cessation of Ordinary Jurisdiction

I. Ordinary jurisdiction lapses on the cessation from office to which it was annexed, and also after condemnatory or declaratory excommunication, translation, lapse of assigned term of office, removal of the grantor from office if the grant was *ad beneplacitum,* or its equivalent, and by interdict.

SECTION 4. Granting of Delegated Jurisdiction

1. Delegated jurisdiction is granted by the local Ordinary to priests, whether secular or religious, to absolve penitents, whether lay, clerical, or religious, in the diocese of the said Ordinary.

2. The Superior of an exempt clerical Institute can grant jurisdiction to any priest, secular or religious, to absolve the subjects of that Superior in accordance with what has been stated above (n. 6).

3. The local Ordinary grants jurisdiction to absolve nuns and their novices living in a religious house within his territory; general law grants extensive jurisdiction for the confessions of nuns, as will be explained.

4. A parish priest, though he has ordinary jurisdiction, cannot delegate jurisdiction for hearing confessions (c. 874; P.C.C.J. Oct. 16, 1919)·

5. Priests who are members of a religious Institute may not lawfully use the delegated jurisdiction given to them by a local Ordinary without the permission, at least presumed, of the Superior, but any Religious may confess to them for peace of conscience (c. 519).

6. Local Ordinaries are forbidden to grant habitual faculties to Religious unless these have been presented by their Superiors; but they should not, without a grave reason, refuse to grant faculties to those Religious who are presented by their Superiors, though they may examine them to ascertain their fitness for hearing confessions.

7. General law grants jurisdiction to all priests in cases of danger of death, and in positive and probable doubt as to their jurisdiction, and in common error (c. 209).

SECTION 5. Cessation and Limitation of Delegated Jurisdiction

Delegated jurisdiction lapses when its purpose has been fulfilled, or has ceased, or when the term of the grant has lapsed, or when the number of cases for which it was granted has been completed, or by revocation of the grant if notified to the grantee, or by renunciation notified to, and accepted by, the grantor, or on the grantor's death, or his cessation from office, if the delegation had been so limited, or was given for a particular case and confession had not begun. However, if jurisdiction was granted for the internal forum, an act inadvertently exercised is valid, even if the term of jurisdiction has lapsed, or the number of cases for which it was granted has been completed (c. 207, §2).

SECTION 6. Jurisdiction for the Confessions of Male Religious

1. Superiors of exempt clerical religious Institutes have ordinary jurisdiction for the confessions of their subjects (cf. sect. 2, n. 6).

2. Members of religious Institutes, even if exempt, can be absolved by their local Ordinary and by those delegated by him, and also, as stated, by their own religious Superior in exempt religious Institutes, and those delegated by him.

3. A religious confessor, having jurisdiction only from his local Ordinary, can be restricted in the use of his faculties, as diocesan confessors are, but if he derives his jurisdiction from his religious Superior, his jurisdiction over diocesan reserved cases is not restricted in his religious house for those whom he can absolve, but it may be restricted in regard to cases reserved in the Institute.

4. A confessor having diocesan faculties can absolve a member of a religious Institute from the sins and censures reserved in the Institute, if the said member seeks absolution for peace of conscience

(c. 519), not, however, from a censure imposed on him by his Superior personally *(ab homine,* c. 2245, §2).

5. In every house of a lay religious Institute there must be appointed both an ordinary and an extraordinary confessor. If a Religious of such an Institute asks for some special confessor, his Superior must giant his request without inquiring into the reason of the request or showing any displeasure (c. 528).

6. In every house of a clerical religious Institute several confessors must be appointed, in proportion to the number of Religious; if the Institute is exempt, the confessors so appointed must be granted jurisdiction over cases reserved in the Institute (c. 518, §1).

7. Religious Superiors who have jurisdiction for hearing confessions can hear the confessions of their subjects if these ask spontaneously and freely, but they may not do so habitually except for a grave reason, nor may they induce subjects in any way whatever to confess to them (c. 518, §§2, 3).

8. Apart from privilege, a master of novices, his socius, the Superior of a seminary or college, may not hear the confessions of those subjects who live in the same house with them, except for a grave and urgent reason, or in particular cases when spontaneously asked to do so (c. 891). Besides the ordinary confessors, other special confessors must be appointed, to whom the novices must go, at least for a blessing, four times each year, and other confessors to whom the novices may freely confess (c. 566, §§3, 4).

SECTION 7. Jurisdiction for the Confessions of Female Religious

1. Special jurisdiction to be given by the local Ordinary is necessary for hearing the confessions of female Religious in their convents, novices are included (c. 876), without prejudice to nn. 5, 6, *infra.*

2. Ordinary confessors are to be assigned to each house of female Religious in proportion to the number of the Religious. If any Religious requests a special confessor or spiritual director for the peace of her mind and greater progress in the way of God, the Ordinary must readily grant her request, taking care that no abuse arises from the concession. If abuse does arise, he must cautiously and prudently eliminate it, without prejudice to the liberty of conscience of the said Religious (c. 520, §2).

3. Each religious house must also have an extraordinary confessor to be assigned by the local Ordinary. This confessor must visit the house at least four times a year, and all the Religious of the house must present themselves to him at least for his blessing (c. 521).

4. Other supplementary confessors must be appointed by the local Ordinary for each house of Religious, to whom any Religious may

confess, without being asked by the Superioress for her reason, nor may the Superioress show any resentment at the request (c. 521, §§2,3).

5. If any Religious, for her peace of mind, confesses to a priest approved by the local Ordinary for hearing confessions of women in a church or oratory, even semi-public (c. 522), or in any legitimately designated place, which includes a place designated for an occasion, or in one in accordance with the canons (c. 910, §1), namely, one chosen owing to the sickness of the penitent, or for any other necessary reason, always, however, invested with the safeguards deemed necessary' by the local Ordinary', such confession is valid and licit (P.C.C.J., Nov. 24, 1920; Feb. 12, 1935). No privilege to the contrary' may be sustained. The Superioress may neither forbid the Religious to act thus, nor may' she make inquiries, direct or indirect, about the matter, nor, if she did, would the Religious in question be obliged to reply.

6. A Religious seriously ill, even though not in danger of death, may ask for any confessor approved for the confessions of women, and she may confess to him as often as she wishes during her illness. The Superioress may not forbid her to do so, either directly or indirecdy (c. 523). It appears certain that the priest must have diocesan faculties from the Ordinary of the place where the convent is situated.

SECTION 8. Concession of Jurisdiction

1. Jurisdiction for confessions may not be granted to a priest unless he has been found on examination to be a fit person to hear confessions, both in respect of his knowledge and moral character. Exemption from examination may be granted to a priest whose qualities are established on other grounds, The same rule applies to religious Superiors in giving permission to their subjects to use jurisdiction already granted. Even after a priest has exercised faculties for years, and even if he is a parish priest or Canon Penitentiary, he may be subjected to a fresh test of his fitness to exercise his jurisdiction (c. 877).

2. Jurisdiction or permission for hearing confessions may be restricted. These restrictions may regard certain classes of people, certain sins, or periods of time. Local Ordinaries and Superiors may not put restrictions on faculties without a reasonable cause (c. 878).

3. That a priest may validly hear confessions his jurisdiction must have been given to him in express verbal terms, or in writing. Jurisdiction cannot be presumed. Conditions may be imposed for the valid exercise of faculties (c. 879, §1).

4. General law delegates faculties in the following cases:

(a) A priest, even if not approved for hearing confessions, can absolve

a person in danger of death from all sins and censures, however reserved and notorious, even if another priest is present who is approved for confessions (c. 882). Absolution in danger of death is limited to the internal forum (P.G.C.J., Dec. 28, 1927). The danger of death may be interpreted in a wide sense; even if it is prudently thought to be probable danger, the faculty may be used. Members of the fighting forces mobilized for war are included in this category (S. Pœnit, March 18, 1912, May 29, 1915). There are, however, two important qualifications to be made to the first part of this number.

(i) Though the absolution given by a priest to his accomplice in a grave external sin against the sixth Commandment when the latter is in danger of death would be valid, it is not always licit. It would not be licit if the said priest could summon another priest, even one not approved for confessions, to hear the confession of the said accomplice, but did not do so when he could have done so without danger of grave defamation or scandal. The accomplice priest would then incur excommunication most specially reserved to the Holy See. But if the priest's accomplice refuses to confess to another priest, he could validly and licitly hear the confession (c. 2367, §1).

(ii) A person who, in danger of death, has received absolution from a censure personally inflicted *(ab homine)* or one most specially reserved to the Holy See, by a priest who had not special faculty to absolve the censure, is obliged, on recovery, to have recourse to the proper Superior under penalty' of relapsing into the same censure, and to fulfil the prescriptions imposed. The proper Superior in the case is the person who inflicted the censure personally, and for the censures' most specially reserved to the Holy See, the Sacred Penitentiary, or any other Superior who has faculty to absolve the said censures (c. 2252).

(b) A priest on a sea voyage who has already received faculties from his own local Ordinary, or from the Ordinary of either the port of embarkation 01' of any intermediate port at which the ship called, can hear the confessions at any time during the voyage of any of the passengers on shipboard, even if the ship passes or stays for a short time at a place subject to the jurisdiction of another local Ordinary. Furthermore, whenever the ship anchors at a port of call, the said priest may hear the confessions of any of the faithful who, for any reason, board the ship, as also of those who wish to confess to him if he lands (his intention being to continue the voyage), and he may in the last two cases absolve the said persons from cases reserved to the local Ordinary. At the expiration of his voyage, his faculties cease, unless he is returning immediately or continuing his voyage, even in another ship (P.P.C.J., May 20, 1923). In the event of his having landed he* may hear confessions as stated during the space of three days, and if the local Ordinary cannot easily be reached even

beyond three days (P.C.C.J., May 20, 1923). The same faculties are given to priests travelling by air *(Motu Proprio,* Pope Pius XII, Dec. ï6, 1947).

(c) A priest can hear confessions and give absolution validly and licitly in cases of common error and in positive and probable doubt about his jurisdiction (c. 209). This concession of law needs elucidation.

(i) When a priest who has diocesan faculties doubts as to the expiry of his faculties, or about his power over a certain sin, or even about his having faculties at all, if his doubt is founded on positive probable reasons in favour of his haring faculties, then the Church supplies him with jurisdiction for the cases in question.

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(ii) If a priest has no faculties at all, the Church supplies him with them in common error. This may be an error on the part of the majority or of a large number of the people of the place; it may also be an error which anyone might fall into if he saw a priest acting as a confessor. In the latter case, the situation creates the error, and many authors think that this kind of error is sufficient to allow the said priest to act as confessor validly. That the priest may also act lawfully in invoking common error by going into the confessional, it is commonly thought that the people waiting to confess should be considered to be in grave need of absolution.

(d) Cardinals and Bishops, whether residential or titular, may choose any priest as confessor of themselves and their household.

SECTION 9. Revocation and Suspension of Jurisdiction

1. Faculties or jurisdiction are revoked if wholly withdrawn. They are suspended if the use of them is forbidden, but if a priest is suspended by condemnatory or declaratory sentence, his faculties are revoked.

2. A local Ordinary^ or a religious Superior may not suspend faculties for hearing confessions except for a grave reason (c. 880, §1).

3. A Bishop may not, without consulting the Holy See (i.e. the Sacred Congregation of Religious) revoke collectively the faculties of all the confessors of a formed religious house, one, that is, which habitually consists of six professed Religious, of whom at least four are priests (c. 880, §3).

SECTION 10. Extension of Jurisdiction

All priests, secular or Regular, approved for hearing confessions in a given place and having either ordinary or delegated jurisdiction, can validly and lawfully absolve not only the inhabitants of the place,

but persons who have no domicile anywhere, and those whose domicile or quasi-domicile is elsewhere, as also Catholics of any Oriental rite.

Priests who have ordinary jurisdiction, that is, jurisdiction in virtue of office, can absolve their subjects anywhere (c. 881, §2).

CHAPTER III

SACRAMENTAL ABSOLUTION

SECTION 1. The Form

1. The complete form of absolution consists of four prayers, one of which, namely, the third, contains the essential words of absolution. The form is set out in the ritual.

2. In cases of urgent necessity, the short formula may be used: *Ego te (vos,* in case of more than one person) *absolvo ab omnibus censuris et peccatis, in nomine Patris et Filii et Spintus Sancti, Amen.* In this form, as in the ordinary one, the words *te (vos) absolvo axe* the essential minimum. The words *Ego te absolvo a peccatis tuis (vestris* in the case of more than one) are valid for absolution from both censures and sins, but a confessor should, outside cases of urgent necessity, employ the whole of the form; when time presses, the first, second and fourth prayers may be omitted. The fourth prayer beginning *Passio* cannot be regarded with any certainty as elevating the good works and sufferings of the penitent to the sphere of sacramental satisfaction.

3. When a confessor pronounces the words of absolution over a penitent who has confessed sins already forgiven, he does not forgive the sins a second time, but bestows on the penitent the Sacrament, the effect of which is an increase of sanctifying grace and the remission of some or all of the temporal punishment that may still be due to forgiven sins.

4. In the Latin Church, the form of absolution must now be indicative, though the deprecative form was employed for centuries and is still employed by the Greek Uniates.

SECTION 2. Manner of Giving Absolution

1. Absolution must be given orally, not by signs, letter, intermediary, or proxy.

2. The penitent must be present to the confessor at the time of absolution. Mutual moral presence is sufficient. A distance between confessor and penitent not too great for the confessor's normal voice to be heard by the normal penitent is sufficient for moral presence.

This is generally held to be about twenty paces. In cases of urgent necessity, as in battle, before battle, in shipwreck, accidents in the street, on the railway, in the air, in mines, in water, conditional absolution may be given and should be given to all collectively who are capable of being absolved, however distant they may be. Whether or not persons confessing by telephone are present to the confessor is doubtful, but conditional absolution may be given in the case.

3. In time of war, soldiers may be absolved in groups as soon as it is thought necessary to absolve them, i.e. the chaplain need not wait for battle to be imminent (S. Pœnit, Dec. 10, 1940). It is permissible to absolve persons in a group in their urgent need outside the danger of death if, without their fault, they would have to go without sacramental grace and Holy Communion for a long time. The local Ordinary is to decide on the need, and priests should if possible refer the matter to the Ordinary that they may licitly give such absolution (S. Pœnit, March 25, 1944). In all cases, penitents should, if possible, be warned to confess their mortal sins when they next *go to* confession. In giving general absolution, the long form in the plural must be used. If there is no time for this, the short form may be used, namely, *Ego vos absolvo ab omnibus censuris et peccatis in nomine Patris et Filii et Spiritus Sancti.*

4. Sometimes conditional absolution should be given, as when a penitent is in need of absolution but is doubtfully disposed, and when, if given absolutely, the Sacrament might be invalid. Therefore if a confessor cannot doubt about the necessary dispositions of a penitent who seeks absolution, he must give it at once (c. 886). The condition need never be verbally expressed; it is sufficient to have the habitual intention of acting according to the mind of the Church. Conditions may regard the present, as, if you are now disposed, or the past, as, if you have fulfilled that obligation. The condition, if you will fulfil that obligation, should really mean, if you are now willing to fulfil that obligation.

SECTION 3. Absolution of the Dying

1. It may be taken as a general rule that whenever a priest is allowed to absolve a dying person, conscious or unconscious, schismatic, heretic, atheist, freethinker, etc., he is bound to do so.

2. A dying person who is certainly unfit for absolution may not be absolved even conditionally. Thus under no circumstances can an unbaptized person be absolved, nor can one who is impenitent for grave sins and is in bad faith. But when a dying person is lying unconscious, it is impossible to know whether he or she is really indisposed for absolution. There can never be any certainty about such a case. Though a dying person has refused to fulfil obviously grave obligations,

his refusal may be due to invincible ignorance, and a confessor must judge as to whether or not he is in good faith, or may be presumed to be so. Thus a dying person may not be absolved if he insists to the last moment on the cremation of his corpse, but the Sacred Congregation of the Holy Office (July 27, 1892) stated that, as to a confessor reminding or not reminding the person of his grave obligation to withdraw his wish for cremation, he must follow the rules laid down by approved authors, being always careful to preclude scandal. Consequently such a dying person could sometimes be absolved conditionally, though his body could not, of course, be given ecclesiastical burial.

3. A Catholic who is dying and is unconscious may be absolved at least conditionally. This procedure is licit if the said Catholic made no request for a priest, even if he became unconscious in the act of sinning, or showed signs of despair, or refused the ministrations of a priest. We do not know what goes on in the soul of an unconscious person. God may have granted him the grace of repentance which he accepted in the measure which was sufficient for absolution. Dying Catholics who have been legitimately absolved once may be absolved frequently, even several times a day, if the confessor cannot doubt about their sufficient dispositions. This is true whether the person is conscious or not.

4. Dying persons should not be harried about material integrity of confession. In urgent cases, the briefest confession, even a generic one, included in the briefest act of sorrow for past sins, is sufficient. The penitent, if conscious, should then be told that all his sins are forgiven by the absolution, but if he gets well and is able to make his confession, he must confess the mortal sins not then confessed.

5. The matter of absolving dying schismatics or heretics is more complicated.

(c) In the first place, the priest has to bear in mind the teaching of the Church in canon 731 : "It is forbidden to administer the Sacraments of the Church to heretics and schismatics, even if they err in good faith and beg for the Sacraments, unless they have previously rejected their errors and have been reconciled to the Church."

(ά) In the second place, the reply of the Sacred Congregation of the Holy Office (May 17, 1916) is a safe guide to the question: " Can absolution and Extreme Unction be given to schismatics in danger of death and when they are unconscious?" The reply was: "Conditionally, yes, especially if in the circumstances it is possible to infer that they at least implicitly reject their errors, but scandal must be effectually precluded, by explaining to those present that the Church supposes that in the last moment of life the dying persons returned to the unity of the Church." If therefore a heretic or a schismatic is

dying and is unconscious, he may be absolved conditionally, his Baptism being presumed.

(c) If a heretic or schismatic is dying and still conscious, and cannot be prudently admonished of his errors and urged to accept the Catholic faith, he may be absolved conditionally but secretly, that is, without his knowledge, if he is thought to be in good faith, his Baptism being presumed. Since, however, the absolution may be invalid, he should be induced to make acts of faith, hope, charity, and perfect contrition, although, presuming the necessary belief, an act of perfect contrition can include all the rest. But in this context, the reply of the Holy Office (May 17, 1916) must be recalled. The question was asked: "May material schismatics at the point of death, who ask in good faith for absolution and Extreme Unction, be given these Sacraments without an abjuration of their errors?" The reply was: "No, but it is required that to the best of their ability they reject their errors and make a profession of faith."

6. Since dying is, in the case of a lingering sickness, a very slow process, a priest need not hesitate to absolve, give Extreme Unction, and the Last Blessing, to those who have been apparently dead for many hours, even until putrefaction becomes visible.

CHAPTER IV

THE SACRAMENTAL PENANCE
(c.887)

SECTION 1. Sacramental Penance—Imposition

The confessor must impose salutary and fitting penances, in accordance with the character and number of sins confessed and condition of the penitent. The absolution is valid, though no penance, or a wholly disproportionate one, was imposed. The penance is a punishment, a help to reformation, a reparation of the violated established order and effects a remission of temporal punishment.

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SECTION 2. Acceptance and Fulfilment of Penance

I. Since willing acceptance of a just penance is part of the due dispositions of the penitent, it is essential to the validity of the Sacrament. The actual fulfilment of the penance imposed is not an essential but is an integral part of the Sacrament. The sins are forgiven by absolution before the penance has been fulfilled.

2. One effect of penance fulfilled is the remission of temporal punishment due to forgiven sin, and to secure this effect, the penance must be fulfilled whilst the penitent is in the state of grace, but the obligation of performing the penance will have been fulfilled, whether or not the penitent was in the state of grace at the time of fulfilment, and even if the penitent had not the conscious intention of fulfilling it.

3. The obligation of performing a sacramental penance is grave only if the sins confessed were grave, the penance imposed grave and imposed by the confessor under a grave obligation. A grave penance imposed for grave sins may be presumed to have been imposed under grave obligation. A grave penance is what the Church now imposes under grave obligation, such as the hearing of Mass, fasting, abstinence, and that amount of prayer which is generally regarded as considerable, such as the recital of the rosary. But much less than a rosary may be imposed for grave sins.

4. A penance must be fulfilled soon after confession, that is, before there arises a risk of its being forgotten. There is, indeed, no strict obligation to fulfil it before either receiving Holy Communion, or going to confession again, but delay in fulfilling a grave penance for grave sins would be a grave sin if the penitent knowingly took the risk of its never being fulfilled at all.

5. A personal penance, such as fasting, prayer, hearing Mass, must be personally fulfilled. The penance of reciting prayers may be fulfilled whilst another obligation, such as the hearing of Mass, is being fulfilled. The intention of fulfilling the penance as a penance is not necessary. If a penance is forgotten, the penitent should seek out the confessor to inquire. If that is impossible, he may perform what he thinks was imposed, but there is no obligation to do so.

SECTION 3. Quality of the Penance

1. A penance should be imposed for sins confessed, even if what is confessed has already been forgiven directly. The sick and the dying may be given the light penance of pronouncing the Holy Name of Jesus, or some short ejaculation. The obligation of imposing a penance for grievous sins is, of its nature, a serious one; that of imposing a penance for venial sins, or for sins already directly forgiven, is probably light. When a forgotten sin is confessed immediately after absolution, the penance already given will suffice if the confessor makes no addition.

2. The quality of the penance imposed should bear a proportion to the nature of the sins confessed. Penances imposed nowadays are not so severe as they were formerly. In regard to the quality of penances, vices should be remedied by their contrary virtues. Thus

almsgiving may be imposed for avarice; bodily penances, such as fasting and abstinence, for lust; holy practices and devotional exercises for sloth; acts of mercy for sins against charity; visits to the Blessed Sacrament for neglect of prayer; monthly Holy Communion for neglect of the Sacraments; acts of faith for doubts about faith, and acts oi hope for sins oi despair. Long continued and repeated prayers are generally unsuitable. Works that are obligatory, as the hearing of Mass on Sundays, may serve as penances. Internal acts of virtue may be imposed as penances, but vocal prayers are better suited to ordinary people.

3. For one mortal sin, the recital of two decades of the Rosary, or five times the *Pater, Ave* and *Gloria* is sufficient, but a severer penance should be imposed for several mortal sins, such as a Rosary, or ten times the *Pater, Ace* and *Gloria* in presence of the Blessed Sacrament. However, the views of confessors differ as to the severity of penances, but what suits one country, or one class of penitent, will not suit other countries or penitents. In any case, a confessor should not allow penitents to think lightly of mortal sin by imposing light penances for it, unless there is an obvious reason for doing so.

4. A penance for grave sins that is smaller than would be normally given may be imposed owing to the infirmity of the penitent, or the spiritual harm which might result from a grave and disagreeable penance, or intense sorrow for sins on the part of the penitent, or a plenary indulgence that can be gained, a partial fulfilment of a grave penance by the confessor himself with the consent of the penitent. Alternative penances may be suggested between which the penitent may choose.

CHAPTER V

DUTIES OF THE CONFESSOR

SECTION 1. Spiritual Father

I. The confessor is the spiritual father of all his penitents, rich and poor, educated and ignorant, priest and lay person. He must have divine charity for all, Christian patience and gentleness, especially with the tiresome and froward, fortitude with the overbearing. No sin, however serious, should surprise him, no hardened sinner lessen his meekness, no scrupulous penitent his longanimity. Though his patience will be sorely tried at times, it is usually inadvisable to interrupt a penitent even if loquacious, repetitive, or confused, except that unnecessary repetitions and details may be gently forbidden.

2. The confessor should exhort all penitents to fit themselves to receive Holy Communion frequently, to confess often, to avoid occasions of sin, to pray daily and to practice those devotions that are suitable to the character of each.

3. He must be firm with those who have erroneous consciences on marital conduct, dangerous reading, unseemly plays, dishonesty in business, human respect, fear of being known as good Catholics, cooperation in the sins of others, adoption of worldly standards, indifference in religious matters.

SECTION 2. Judge and Physician

1. A confessor, being the minister of divine justice and mercy, is judge and physician; he judges the sinner and heals the repentant. He must listen to the evidence of the sinner, both for and against himself. No sinner is condemned on probabilities, for a confessor must give the benefit of doubt or probability to the sinner, whatever his own opinion may be.

2. As judge, he may not condemn nor acquit, unless he understands the case submitted to him. But a confessor may judge on general lines, if he is unable to grasp the many distinctions, at times very subtle, which divines make for the sake of theory. What is of great importance is that the confessor must judge of a case in accordance with the conscience of the penitent, not by academic rules. He may take the accusation at its face value, presuming grave sin if sin is confessed as grave, though he must correct an erroneous conscience. In doubt, questions must be asked that are simple and direct. If doubt persists in grave matters, he may absolve conditionally in accordance with the rules given for such absolution.

3. Each mortal sin must be understood by the confessor in its exact specific character, so that expressions that are vague should not be allowed to pass. If he has not heard distinctly what are probably grave sins, he must oblige the penitent to repeat, to speak up, to explain, but without too great detail in sins that are against the sixth or the ninth commandments. The minimizing penitent is not to be allowed to screen his gross sins, a point of great importance in matters of injustice and marital relations. Details in the latter case must be forbidden if the main drift of the sin is understood.

4. As physician, the confessor must suggest suitable remedies for the diseases of the soul, in order to cure habits of sin by habits of virtue, the attraction of sin by the love of virtue. His aim must sometimes be to treat the wounds of sin by drastic remedies when necessary and tolerable, but more often he will deal mercifully and gently.

The remedies for sin are, indeed, numerous, but one or at most two

should be applied over a given period. Amongst the remedies the following have proved effectual:

(a) An ejaculation at the moment of temptation, as, Heart of Jesus, hope of all who trust in Thee."

(b) Some short prayer night and morning against a particular danger.

(c) Confession after a relapse, frequent confession to the same confessor.

(J) Frequent reception of Holy Communion with devout preparation and fervent thanksgiving.

(e) Avoidance of voluntary occasion of sin.

(/) The reading of Catholic books, meditation on the life of Our Lord.

(^) Exercise of confidence and hope.

(Λ) Immediate sorrow after a fall.

(t) Some bodily penance or abstinence from lawful pleasure.

SECTION 3. Prudent Questioning

I. The canons warn the confessor not to inquire the name of an accomplice in sin, not to harass penitents with curious and useless questions, especially such as relate to the sixth commandment, and particularly against questioning young penitents on matters of which they may be supposed to be ignorant. But when the circumstances and occasions of such sins must be known in order that the confessor may impose the obligation of avoiding occasions, the identity of an accomplice may have to be revealed, so that questioning which leads to that result is not then forbidden.

2. The utmost reserve is necessary in asking questions concerning the virtue of chastity. If some prudent questions must be asked, for the penitent may ask to be helped, then the confessor will first ask about thoughts, if, for example, they were very bad and if so, were they kept in the mind, or were merely passing imaginations and not wilful. Very brief questions may be asked about actions, as, for example, if they were solitary or with another, and if that other was related by kinship or marriage, or was under vow. In the case of the married, the confessor must take care that his silence does not allow a penitent to go away with the impression that in his or her case contraception is condoned and permitted.

3. Numerous and lengthy questions should not be put to persons who are suffering from painful illness or in danger of death. The briefest confession is then sufficient, even a generic one.

4. An Instruction of the Holy Office (May 16, 1943) enforces the rules of the canons in detail. A confessor should read this Instruction and be guided by it.

SECTION 4. Doubtful Sincerity of Penitents

1. A confessor must, in general, believe a penitent when he accuses, affirms, or denies. If he knows that a penitent has committed a grievous sin which he does not confess, nor admits it when questioned, he should remember that perhaps the penitent forgot it, or did not think it sinful or has confessed it already, or withholds it for a sufficient reason.

2. If a confessor's knowledge of a penitent's grievous sin came to him outside confession, or from others, he may absolve the penitent who did not confess it after prudent questioning, and probably ought to do so. If the confessor knows of the grievous sin from personal observation, and had good reason for thinking it not yet confessed, he may not absolve the penitent who did not confess it. If he knows of a certain grievous sin of A from the confession of another, B, he may question A in a general way, but without making any use of sacramental knowledge, or risk of violating the seal, and if the sin is denied, he may absolve the penitent A conditionally, or, according to some authors, absolutely, since one can never be certain that people sin deliberately and with full advertence.

SECTION 5. The Duty of Giving or Refusing to Give Absolution

1. The canons (c. 886) bid the confessor who cannot doubt about the due dispositions of a penitent when he asks for absolution, to give absolution and not defer it. The sufficient signs of a penitent's due dispositions are spontaneous confession, humble accusation, expression of sorrow, reformation of life since the previous confession, a confession made in spite of personal difficulties, a promise to adopt the advice of the confessor, confession of sins previously concealed, confession on the occasion of a mission, retreat, sermon, or personal misfortune.

2. The duty of at once absolving the grievous sin of a penitent who is fit for absolution is grave, owing both to the confessor's official position, and the serious consequences to a penitent if not absolved.

3. But occasional neglect to absolve a penitent who has confessed only venial sins, or mortal sins already forgiven by direct absolution, is not a grave sin, unless the penitent expressly asked for absolution.

4. If a penitent makes a generic confession, mentioning no sin at all when reasonably asked by the confessor to do so, no absolution need be given.

5. A penitent whose dispositions are doubtful may be absolved conditionally and should sometimes be so absolved. He may be absolved if otherwise he would have to confess to another with inconvenience, or if he is about to receive a Sacrament of the living, such as matrimony. He should be absolved if he is in danger of death, or if otherwise his good name would suffer, or if he would remain in the

state of sin for a long time, or if he is making his annual confession, or if he rarely receives the Sacraments.

6. Absolution of a doubtfully disposed penitent may be deferred, but rarely, and only for a very short time, if it is for the obvious good of the penitent. He may be advised to pray in the church and return after a short time.

7. Absolution may not be given if a penitent is unfit to receive it, or incapable of receiving it. But a confessor should dispose unfit penitents for their absolution by earnest exhortations to make peace with God and not to delay their conversion. Unfitness from lack of sorrow is difficult to discern; it probably manifests itself best by want of amendment after relapses, or indifference to the avoidance of free proximate occasions of grave sin.

SECTION 6. The Duty of Correcting Errors

1. If an error has been made by the confessor which affects the validity of the Sacrament, he is seriously bound to rectify it when it was due to his grave negligence, or has resulted from it, as would be the case if a penitent was in danger of dying in mortal sin, or if it would easily result in grave harm to the penitent. He must acquaint the penitent with the fact as soon as possible. But if the error was due to the fault of the penitent, the confessor must ask his permission to speak of the matter. It may be necessary to absolve again, so that another confession will be required. This confession may be a summary one, if the confessor remembers the previous confession. If the error affected the validity of the Sacrament but was not due to any grave fault of the confessor, even then he is obliged to correct the error if the penitent is in danger of dying in mortal sin.

2. If a confessor misleads a penitent in regard to the integrity of confession, he must correct the mistake when the penitent confesses again, or outside confession with the express permission of the penitent to speak of confessional matter. Serious inconvenience would excuse the confessor.

If a confessor did not positively mislead a penitent, but merely neglected to ask about number or species of sins when he could have done so, he need not correct the mistake outside confession, but must do so at the penitent's next confession. This would not be to violate the seal for the matter is treated in the same sacramental forum of the same penitent.

3. If a confessor gave wrong advice in confession with the deliberately grave intention of doing great harm to a penitent or a third person, he is bound to correct the mistake even under grave inconvenience to himself, without, of course, violating the seal or using confessional knowledge to the gravamen of the penitent.

4. If inadvertently he gave a wrong answer to a penitent during confession which led the penitent to commit material sin, he must correct his mistake if he can conveniently do so, and he is the more obliged to do so if the mistake concerned faith, or very important principles. The obligation is particularly urgent if the wrong advice concerned prenuptial conduct, marital relations, reading bad books, petty thefts, hospital practice, surgical procedure, restitution.

5. If culpably in a grave degree he freed a penitent from making necessary restitution, he is bound to withdraw his wrong advice. If culpably in a grave degree he obliged a penitent to make unnecessary restitution, he must correct his error. If he deliberately does not do so, he must indemnify the penitent if the latter suffered loss.

6. If he has culpably kept silence when a penitent, erroneously thinking restitution necessary, has made restitution, he is probably not obliged injustice to indemnify the penitent, unless his silence could have been reasonably construed as positive approval.

7. If he kept silence, even culpably, when the penitent was bound to restitution and no restitution will be made, he is not bound in justice to indemnify a third party who suffers loss, but he is bound in charity to correct his fault.

CHAPTER VI

THE SACRAMENTAL SEAL
(cc. 88g, 890)

SECTION 1. Nature and Content of the Seal

i. The sacramental seal is the seal of secrecy affixed on the confessor's knowledge of what he has heard as confessor. This secret is not only a professional one but is sacramental.

2. The content of the seal is whatever is confessed with a view to absolution, namely, not only actual sins, but what is mentioned by way of explaining sins confessed, and what the penitent apprehended as sins, even if they were not sins at all, and also everything mentioned by way of explaining what was submitted for absolution, even if not, in fact, sinful.

SECTION 2. Obligation of the Seal

i. The obligation of secrecy imposed on a confessor is derived from divine natural law. There is no graver obligation of secrecy. Every revelation of confessional matter that is direct is a grievous sin; some indirect revelation can be venial.

2. The Church forbids the use of sacramental knowledge entailing grievance to the penitent, even if there is no danger of revealing anything.

3. The Church forbids the use of sacramental knowledge in the external government of subjects.

SECTION 3. Matter of the Violation of the Seal

1. Direct violation of the seal takes place when a confessor reveals some matter submitted to him for absolution and the person of the penitent. Indirect violation takes place when a confessor does, or omits to do, something in such a way, that a third party could come to a knowledge of confessional matter submitted for absolution by a definite person, though the confessor reveals no specific matter of any particular penitent.

2. The direct object of the sacramental seal includes all mortal sins confessed, whether in detail or in general terms, all venial sins confessed in detail, but not venial sins confessed in general terms, and also public and notorious sins confessed.

3. The indirect object of the seal includes all sins confessed, all circumstances mentioned to explain sins, even if irrelevant, the sacramental penance imposed unless it was very light, the refusal of absolution, the fact that absolution was deferred, advice given or asked for if it had connexion with sins confessed, the hidden state of life of a penitent, the virtues or extraordinary gifts of a penitent if mentioned for the better explanation of sins, the objects of sins, the matter of the sin of a third party if mentioned as approved or avenged, everything heard in confession even not included under the seal directly which would, if revealed, redound to the gravamen of the penitent or penitents generally, the name or person of an accomplice in sin, the defects of a penitent such as scrupulosity or impatience, if these have any relation to sins confessed, the fact that confession was made if it suggested that the confession was necessary, the fact of absolution given if it suggested that absolution was necessary, a confession begun but not completed, a sacrilegious confession. In fact, so many matters are included under indirect revelation, or illegitimate use of sacramental knowledge, that a confessor should avoid speaking about anything at all which he heard whilst acting as confessor. All the aforesaid examples apply to the dead as much as to the living.

4. The Holy Office (June 9, 1915, private) has condemned all private conversation about, and public mention of, confessional matter in sermons, on the plea of instructing the people, and every reference to confessional matter which has even the appearance of compromising a penitent. It is not, however, forbidden to consult some learned adviser if there is no danger of revealing confessional matter.

Example*

1. Indirect violation of the seal

The seal is violated indirectly if a confessor, after hearing a few confessions, reveals a sin confessed by one of the penitents even without specific mention of the person; or if a confessor declares that a certain sin which he heard in confession is common in the place, unless the place is a large one; if a confessor of a small parish or community mentions to a priest about to give a mission certain matters heard in confessions, so that the missioner may bear them in mind or speak about them.

2. Punishing a penitent

A priest may not dismiss a servant, or fail to give a post in his house or church, or take away the keys from, or dismiss, a person, in consequence of what he has heard in that person's confession.

3. Use of sacramental knowledge

A priest may not avoid a place where he knows he will be attacked, or omit to say Mass with poisoned wine, or refuse to go to a certain house where he will be seriously compromised, if by his action or omission the seal would be even indirectly violated, or a penitent reasonably offended.

SECTION 4. Probabilities of Revelation

A confessor is not allowed to adopt a line of action on the ground that in adopting it he will probably not violate the seal, or give offence to penitents. The rules of probabilism do not apply to the case of the sacramental seal. This is true whether the probability is a probability of fact, namely, that this or that fact was probably not confessional matter, or if it is a probability of law, namely, that on a given point theologians are divided in opinion as to whether there is or is not a violation of the seal, or offence to penitents, in some specific case.

SECTION 5. When a Confessor May Use Confessional Knowledge

1. A confessor may speak to a penitent during confession about that penitent's past confessional matter, or in the confessional immediately after the confession, even if absolution has not been given.

2. In the aforesaid circumstances, the confessor may speak only of necessary matters and must have a good, though not necessarily a serious, reason for doing so.

3. A confessor may speak of confessional matter outside confession with permission of the penitent; this permission must be express, free, not retracted, oral, or equivalently so.

4. A confessor may do what he is already obliged to do, or omit to do what he should omit, if he has been reminded of his duty only by the confession of a penitent, provided that there is no danger of any violation

of the seal, or grievance of a penitent, or of the faithful in general, or scandal. Thus he may be reminded to fulfil his duties more exactly, bestow more diligence over his charges, pray for a penitent, treat a penitent more sympathetically, consult books, take advice, warn his penitent or others.

SECTION 6. Certificate of Confession

A certificate is sometimes given by confessors to penitents as evidence that confession has been made. It may be refused if no confession was made, or if absolution was not sought. But the certificate should be given if the refusal would betray the penitent in any way, or if it entailed any violation of the seal, or caused scandal. If the certificate was asked for outside confession, it should be given, even if the penitent had not been absolved owing to want of due dispositions. No certificate should be tolerated if intended to serve as evidence of absolution granted or refused. Certificates may be given as evidence that persons presented themselves to the confessor, but the practice of giving certificates, if it still exists, should be abolished.

SECTION 7. Canonical Penalties for Violating the Seal

1. A confessor who presumes to violate directly the sacramental seal incurs *ipso facto* an excommunication reserved most specially to the Holy See (c. 2369, §1). Since the law uses the word presumes, ignorance, though crass or supine, slight fear, imperfect advertence, consent that is not fully deliberate, imprudence that is only slightly culpable, excuse from the penalty (c. 2229, §2).

2. A confessor who rashly violates the seal indirectly is subject to the following penalties which may be imposed, namely suspension from saying Mass, from hearing confessions, and if the offence is serious, incapacity of ever hearing confessions, deprivation of all benefices, dignities, active and passive voice, incapacity of ever having either, and degradation for graver offences (c. 2369, §1; 2368, §1). The indirect violation of the seal must be interpreted strictly; it does not include the illegitimate use of confessional knowledge without violation of the seal.

3. Others besides the confessor who rashly violate the seal are to be punished by salutary penalties in accordance with the gravity of their offence; excommunication may be one of them (c. 2369, §2).

SECTION 8. Persons Bound by the Seal

i. A confessor is bound primarily, others secondarily. Every confessor is so bound, whether he is an approved confessor or not, and even if excommunicated, suspended, interdicted, deposed, or degraded.

2. A fictitious confessor, as for example a lay person, subdeacon, deacon, minor cleric, to whom a person confesses in good faith, is obviously under an obligation ofjustice to maintain secrecy about what has been confessed, and it is commonly held that he is also bound by the seal.

3. Other persons bound by the seal are the following:

( ) One who has served as interpreter between confessor and penitent during the confession of the latter.

( ) A Superior who has been asked by either confessor or penitent for faculty for absolution from a reserved case.

(c) A Superior approached by an absolved penitent to receive his mandate.

(d) A person whose advice is sought by a confessor even with permission of the penitent.

(e) A priest asked before confession how to make confession to him.

(/) All who, whether accidentally or deliberately, overhear another person confessing secretly.

(g) All persons to whom confessional matter has been communicated, directly or indirectly, immediately or mediately, culpably or inculpably.

(A) One who reads the written confession of another which serves as an actual confession, or is a means of actually confessing, or which has been left in the confessional, or has been lost by the confessor; not, however, if read outside the confessional and the act of confessing, nor if the penitent is in possession of the script outside the confessional, or has lost it. If it be not known whether the confessor or the penitent left the script in the confessional, it must be regarded as under the seal.

(i) One who reads a confession, written by the penitent and handed to a confessor as a means of subsequently confessing to that confessor.

(j) One who reads a letter sent to the Sacred Penitentiary, or to a Bishop, requesting absolution from a reserved case, or a mandate after absolution and dispatched by the confessor or the penitent.

Notes

1. Letters dealing with occult cases sent to the Sacred Penitentiary must be sent by public mail, or through an agent in a special enclosed envelope securely sealed (S. Pœnit., Feb. I. 1935).

2. A penitent is not bound by the seal to observe silence about his own confession; he may be bound to observe silence about what his confessor has said, about the penance imposed, and a confessor's refusal to hear his confession, for there may be an obligation of a natural secret, the violation of which might seriously affect the good name of the confessor. There are, of course, cases where it is necessary to speak about a confessor, as when it is wished to have a penance changed by another confessor, or when a penitent is justified in complaining about a confessor.

CHAPTER VII

THE OBLIGATION OF HEARING CONFESSIONS
(c. 892)

I. Those obliged to hear confessions in virtue of office are parish priests, quasi-parish priests, parochial vicars, curates appointed by their Ordinary, the Canon Penitentiary, beneficed priests appointed by their Ordinary', local Ordinaries, Superiors of exempt Religious, at least by proxy- and in accordance with the rules of their Institute, confessors appointed for communities of seminary, convent, or monastery.

2. The aforesaid are obliged to hear the confessions of their subjects when reasonably requested to do so. A request is reasonable if made in danger of death, or for annual confession, or in grave sin, or for spiritual progress or comfort. Furthermore, frequent confession is to be positively encouraged, and ready' opportunities for it must be given to the faithful (S.C. de Sacr., Dec. 8,1938).

3. The obligation of the pastor himself is grave, and in extreme or grave need of subjects very grave, even with risk of his life, though he may get a substitute but not habitually.

4. All who have jurisdiction to hear confessions are obliged to hear the confessions of those for whom they have jurisdiction in their grave need and also when reasonably requested to do so. All priests are obliged to hear the confessions of those in danger of death, but an individual is seriously obliged only when another confessor is not available.

CHAPTER VIII

RESERVED SINS
(cc. 893-900)

SECTION 1. Nature of Reservation

I. As the Church grants jurisdiction, so it can withhold, withdraw, or restrict it. The restriction of jurisdiction is reservation. It is thus stated: "Those who have ordinary power to grant jurisdiction for hearing confessions, or to inflict censures, can also withdraw to their own tribunal certain cases, thus restricting the power of inferiors to absolve."

2. Reservation may affect certain classes of persons, as nuns, or certain places, periods and sins. Reservation immediately affects the confessor not the penitent.

3. The purpose of reservation is that certain sins, especially the more serious, may be dealt with by a Superior who is likely to have more adequate knowledge and a sounder judgment than the ordinary confessor.

4. A sin may be reserved with or without censure attached to it. If a censure is attached, the sin may be and usually is reserved because the censure is reserved. There is only one sin which is reserved as such by the Holy See to itself, namely, false accusation by a penitent of an innocent confessor on the charge of soliciting chat penitent to a grave sin against chastity.

SECTION 2. The Author of Reservation

1. In general, all who by common law can inflict censures, or grant faculties for hearing confessions can reserve sins, except the Vicar Capitular and the Vicar General without special mandate.

2. The Pope can reserve sins in respect of all baptized persons. Local Ordinaries can reserve sins within their respective territories.

3. The Superior General of an exempt religious Institute and the Abbot of a monastery with independent jurisdiction can reserve sins after consultation -with their Council, though its approval is not essential, without prejudice, however, to the freedom of a Religious to seek absolution for peace of conscience from a confessor having faculties where the Religious confesses (c. 519).

4. The power of reservation must be employed not to the spiritual harm of the faithful but to their spiritual benefit. The cases reserved by a Bishop must be few, namely, three or four, and must be those that are the more serious external crimes specifically designated. Internal sins and venial sins are not reserved. Long ago (1602) the Sacred Roman Congregations warned Bishops not to reserve without great prudence sins of the flesh, lest scandal should arise and the good name of penitents be jeopardized. Reservation should not remain in force longer than is necessary for extirpating some public deep-rooted vice, and for restoring Christian discipline if it had become relaxed.

5. No one may reserve to himself those sins which are reserved to the Apostolic See, even if reserved with censure, nor as a general rule those sins to which an unreserved censure is attached by law.

6. The local Ordinary must bring to the notice of the faithful those sins which he judges necessary or useful to reserve. It is usual to have the list of the reserves put up in the confessional.

SECTION 3. Persons Subject to Reservation of Sin

1. All persons baptized who have reached the use of reason and are seven years of age are subject to reservation of sin, unless they are expressly exempt by law—an exemption nowhere stated at present—or by the local Ordinary of the place where a penitent confesses.

2. Those who are not generally subject to the local Ordinary by reason of not being domiciled in his territory, are subject to local reservation of sin, for it is the power of the confessor that is restricted.

3. Exempt Religious are not subject to reservation of sin by the local Ordinary', nor probably are those who dwell day and night in an exempt religious house as novices, servants, pupils, guests, the sick, if their confessor has received his faculties for hearing confessions from the religious Superior.

SECTION 4. Conditions of Reservation and Exemption

1. In order that a sin may be reserved it must have been stated by competent authority to be reserved. It must be a formal sin, i.e. subjectively imputable and external, even though secret, grievously sinful both materially and culpably, consummated in the particular way in which the reservation defines it, certainly reserved beyond all doubt of law and fact.

2. Ignorance of the reservation excuses if it has been expressly stated to excuse by him who reserved the sin, or if the teaching to that effect is even tacitly approved by him. In the absence of any of the essential conditions constituting the nature of the reserved sin, the sin is not reserved. If a reserved censure was not incurred, the sin corresponding to the censure is not reserved if the sin is reserved because the censure is reserved.

SECTION 5. Cessation of Reservation of Sins without Censure

The reservation of sin ceases in the following cases:

1. By legitimate absolution.
2. In danger of death from any cause.
3. In case of sickness when the penitent is confined to his house or in the place where he happens to be.
4. In the case of those who confess with a view to marriage, even though they confess more than once, and whether the marriage is to be contracted or rectified.
5. Whenever the legitimate Superior refuses to delegate faculty for a specific case, if the confessor prudently judges that absolution should be given.
6. Whenever, in the prudent judgment of the confessor, the legiti-

mate Superior cannot be applied to for delegation without grave inconvenience, or the danger of violating the seal. Even if the confessor is in doubt as to either of these consequences arising he may absolve. The grave inconvenience referred to may be spiritual, moral, corporal, economic, affecting either the penitent or others, and if the inconvenience is only probable, the confessor may absolve. To remain in grievous sin would be regarded by most people as a grave inconvenience. The delay entailed in seeking delegation is the delay due to receiving a reply to a letter.

7. If a confessor absolved a penitent from a reserved sin inadvertently the absolution is probably valid.

8. Reservation of sin ceases outside the territory of him who reserved the sin, even if the penitent who committed the sin went outside the said territory in order to be absolved where he could be absolved. But he could not be absolved if the sin is reserved also where he confesses (P.G.C.J., Nov. 24, 1920).

9. The one sin reserved to the Pope (c. 894) ceases to be reserved in accordance with the aforesaid rules.

SECTION 6. Absolution of Reserved Sins

1. Faculty to absolve from sin reserved by a local Ordinary is possessed by the Ordinary himself, his successors, his Vicar General, the Vicar Capitular, and Canon Penitentiary.

2. Vicars forane are to be given habitual faculty to absolve from these reserved sins, especially in places somewhat remote from the episcopal city, and to delegate this faculty to confessors of their districts when these apply for it for some urgent purpose and a special case. The canons imply that habitual faculties should be granted to others besides the Vicars forane.

3. Parish priests and those who in law are included under that title can absolve from such reserved sins during the whole of paschal time. The confession need not be the prescribed annual confession, nor need the absolution be restricted to one confession.

4. Every missioner can absolve from such reserved sins when he is giving a mission to the people at any time. The term mission may be interpreted to include the spiritual exercises given to clerics, Religious, lay people, publicly, privately, or individually. It is probable that confessors delegated to hear confessions during such missions or spiritual exercises have the same power. This power probably extends to censures reserved to himself by the Ordinary.

5. Confessors who have diocesan faculties can absolve Religious from all sins reserved by the rules of their Institute when a Religious confesses for peace of mind (c. 519).

6. In danger of death all priests, though not approved confessors, can validly absolve from all reserved sins, but a priest cannot licitly absolve his own accomplice if another confessor can be got without defamation of either accomplice, or unless the accomplice refuses to confess to any other confessor except the accomplice priest (c. 2367,

7. A priest passenger on shipboard having faculties to hear confessions from his own local Ordinary', or the Ordinary of the place of embarkation, or of call, can hear the confessions and absolve from local reserved sins those persons who for any reason come on board, and those persons also who confess to the said priest if he happen to go ashore, provided that he is going to continue the voyage or return even in another ship; the said priest can so absolve during a space of three days and even longer if the local Ordinary cannot be referred to (P.C.C.J., May 20, 1923).

8. A priest travelling by air has the same faculties (Pope Pius XII, *Motu proprio*, Dec., 1947).

CHAPTER IX

CONFESSION
(cc. 901-907)

SECTION 1. The Obligation of Confessing

1. Every person who, after Baptism, has committed mortal sin which has not been directly absolved by the keys of the Church must confess such sin if he is conscious of it after a diligent examination of conscience, and also those circumstances of his sin which seriously change its species. Such confession is obligatory' and necessary for salvation by divine law (C.T. *sess.* xiv, *can.* 6).

2. The obligation is most of all pressing in actual or probable danger of death, but when confession is then or at any other time impossible, its place may be taken by an act of contrition which itself includes a desire of confessing (C.T. *sess.* xiv, *c.* 4). When a person is not in actual or probable danger of death he is not certainly obliged by divine law to confess his mortal sins merely in order to be free from them.

3. The law of annual confession is stated thus: "Each of the faithful of either sex after having come to years of discretion, that is, the use of reason, is obliged to confess his (her) sins at least once a year." Since the Church teaches that venial sins need not be confessed, the

law of annual confession regards only mortal sins (C.T. *sess.* xiv, *c.§).* This precept is fulfilled at any time during the year, whether civil or ecclesiastical, or between Easter and Easter.

4. The obligation of annual confession of unabsolved mortal sins is grave. If such confession has been omitted, the law still urges and confession must be made.

5. Children who have come to the use of reason, even if they are not seven years of age, are bound to confess their mortal sins, if they have committed such sins (P.C.C.J., Jan. 3, 1918).

6. The precept of annual confession is not fulfilled by a sacrilegious confession.

7. The annual confession, like every confession, may be made to any priest who has local faculties, not excluding a priest of a Catholic rite other than the rite of the penitent.

8. It is prescribed that circumstances which seriously change the species of sin must be confessed. What those circumstances are has been explained in the treatise on sin. Thus the circumstance of marriage renders adultery a grave sin against justice as well as against chastity.

SECTION 2. The Matter of Confession

1. By the matter of confession is meant the sins which either may or must be confessed. The matter that must be confessed is every mortal sin committed after Baptism and not yet directly absolved. Matter that may be confessed is venial sin, whether or not already forgiven by absolution or attrition, and also any mortal sin already forgiven directly by absolution.

2. Doubtful matter for confession is sin that was doubtedly committed.

3. If a penitent does not confess certain matter but only doubtful matter, the confessor should ask him to mention some certain sin or sins of his past life. If nothing definite can be got, conditional absolution may be given. But generic confession is treated later.

SECTION 3. Confession of Converts

1. If a convert is baptized absolutely on conversion, no confession is made, and all past sins are forgiven by the Baptism if the convert elicited sorrow for them.

2. If a convert is baptized conditionally on his conversion, confession is obligatory in England and Wales. Where such confession is not imposed, it may be urged as matter of counsel.

3. A convert's confession may often be reduced to small proportions, if he is told that only those sins need be confessed which, at the

time of committing them, the convert regarded as serious. If subsequendy other mortal sins are remembered, they must be confessed at the next confession.

SECTION 4. Generic Confession

1. A generic confession is one that is expressed in general terms without mention of any specific sin, such as: "I have sinned." If a penitent has been guilty of mortal sins not yet confessed but remembered, a generic confession is insufficient except in cases of imminent danger of death if there is no time to confess, or when, for a legitimate reason, the penitent is not obliged to anything more.

2. In cases of necessity when a detailed confession is impossible, a generic confession is legitimate. Thus soldiers immediately before battle is engaged may be absolved *en masse* without any specific confession after making an act of sorrow. Other cases are sanctioned (c. iii., sect. 2, n. 3, *supra).*

3. A generic confession of sins already absolved or of venial sins is valid and probably licit even outside cases of necessity. But in practice, a confessor should ask the penitent to mention some specific sin of the past, otherwise penitents are apt to become perfunctory in making confessions and forget the great value of devout and humble confession. Furthermore sorrow for specific sins is more easily elicited than sorrow for sins in general.

SECTION 5. Frequent Confession

Frequent confession may not be discouraged except in the case of scrupulous people; on the contrary', it should be encouraged. Those who live in community should have opportunities of confessing frequently, even daily, and especially immediately before Holy Communion. In schools, confessors should always be available before the time of Holy Communion (S.C. de Sacr., Dec. 8, 1938).

SECTION 6. Confession by Means of an Interpreter

Penitents may, but are not obliged to confess by using an interpreter if they cannot conveniently confess otherwise, but all abuse and scandal must be precluded. Obviously the interpreter is as much obliged to observe secrecy as is the confessor. An interpreter could read aloud in presence of priest and penitent a printed or written list of sins, without seeing what the penitent admits by some outward sign. But an interpreter need never be employed, for a penitent may express sins merely by outward signs, the main drift of which can be sufficiently understood by the confessor. If the confessor understands nothing, the penitent may express sorrow by striking the breast and that would be a sufficient confession.

CHAPTER X

EXAMINATION OF CONSCIENCE

i. An examination of conscience is sometimes quite necessary. For those who have not confessed for a long time this examination may be seriously necessary. For those who confess frequently a brief examination is sufficient. For the scrupulous a very brief examination is sufficient; indeed, protracted examination in their case may be harmful.

2. The examination of conscience must normally be a diligent one, suitable, however, to the condition of the penitent. Those exposed to many temptations, if not scrupulous, should examine their consciences with great care. Carelessness in this matter leads to a blunting of conscience. The sick who are too depressed to examine the conscience should be assisted by the confessor. The careless Catholic who neglects and stays away from the Sacraments all the year sorely needs the help of the confessor to discover his sins.

3. A written list of sins is sometimes useful but not for the scrupulous. The list of sins in prayer books will help the lax Catholic. Children should not be allowed to use printed lists, for they will confess sins which they have not committed, nor should sins be suggested to them as they are too ready to admit anything.

4. When a penitent's examination of conscience has obviously been insufficient, or the confession perfunctory, the confessor should ask questions. In rare cases, a careless penitent should be dismissed in order to examine his conscience carefully, but the procedure is not usually prudent for the penitent may not return; he may have done his best, so that on occasions the confessor may make the examination of conscience for him by asking questions.

CHAPTER XI

CONTRITION

SECTION 1. The Nature and Necessity of Contrition

i. Contrition is sorrow for, and detestation of, sin committed, together with a determination not to sin again. Perfect contrition is sorrow elicited from the motive of disinterested love of God. Imperfect

contrition, commonly called attrition, is sorrow elicited from some less exalted motive, such as gratitude or fear of punishment. The former remits all sins at once; the latter is sufficient in the Sacrament of Penance, and can remit all venial sins apart from the Sacrament. Any divine perfection can be the motive of perfect contrition.

2. Perfect contrition includes, at least implicitly, the desire of receiving the Sacrament of Penance (C.T. sess. xiv, *c.* 4).

3. Apart from sacramental absolution perfect contrition for mortal sins is necessary for salvation.

4. Imperfect contrition, being supernatural, must be based on a supernatural motive just as perfect contrition. It may be based on the desire for God as the sinner's personal good, or on the hope of reward, the shamefulness of sin, its malice, the fear of hell or of other divine punishments, even temporal. In this sorrow there is no formal act of the love of God, but the sorrow is based on faith.

SECTION 2. Qualities of Contrition for Mortal Sin

1. Sorrow for mortal sin, -whether it is perfect or imperfect, must be true, supernatural, supreme and universal.

2. It must be true and genuine internal sorrow of the will, not mere feeling, though feeling may be an indication that the sorrow is genuine. For confession it must be a formal act of sorrow, but it is practically impossible for a sinner to make an act of the love of God, even an imperfect one, without also having formal sorrow. The confessor should see that the penitent makes an explicit act of sorrow at least during absolution.

3. The sorrow must be supernatural, that is, based on a supernatural motive, namely, one that is founded on faith in God or some of God's attributes. A motive based on merely natural considerations is not sufficient. A sinner who confesses his sins must be supposed to have faith and hope, and that being so, his sorrow can hardly fail to be supernatural.

4. Sorrow must be supreme, that is, sin must be regarded as the greatest evil and detested above all other evils. No particular degree of intensity of sorrow nor any duration of it is necessary. Perfunctory acts of contrition must be checked. The shortest form: "Oh, my God, I am sorry for my sins and will not sin again," can be sufficient, but children should be taught a longer form including the motives for sorrow.

5. Sorrow must be universal in regard to all mortal sins whether they are remembered or not. It is sufficiently universal if it is sorrow for all sins taken together.

SECTION 3. Qualitiee of Contrition for Venial Sin

1. Sorrow for venial sins must be true, internal, supernatural and supreme in the sense explained.

2. It need not be universal, that is, genuine sorrow for some venial sins is sufficient for valid absolution, though a penitent is not sorry for others, since some venial sins can be forgiven whilst others remain unforgiven. But the devout penitent will conceive universal sorrow for all venial sins.

SECTION 4. Relation of Sorrow to Confession

1. Since a penitent must be duly disposed for absolution from sins, sorrow for sin, being one necessary disposition, must be present before or at least during absolution. If the sorrow has been conceived before confession it must persist up to absolution. It is recommended, therefore, to make an act of sorrow immediately before confession. An act of sorrow can, indeed, virtually persist for a long time, but as it is not clear how long it can do so, penitents should be taught to make an act of sorrow during absolution. It is certain, however, that the one act of sorrow, if universal, will suffice for a second absolution given at once after a previous absolution, when, for example, a penitent confesses some sin or sins forgotten in the confession which he has just made, but a fresh act of sorrow is advised.

2. Sorrow for sins need not be elicited with a view to the confession of them. If the sorrow once elicited persists during absolution it is sufficient.

CHAPTER XII

THE PURPOSE OF AMENDMENT

SECTION 1. The Purpose of Amendment for Mortal Sins

I. The purpose of amendment is the serious determination not to sin again. It is explicit if formulated as a distinct act; it is implicit if included in the act of sorrow. The purpose of amendment is essential for the forgiveness of sins.

2. The purpose of amendment in the case of mortal sins must be firm, universal and efficacious.

(a) It is firm if a penitent seriously wishes to avoid sin and to be willing to endure, with the help of God’s grace, any evil rather than offend God seriously. Comparisons must not, however, be made, for

these may lead to fear and even to despair. It is present determination that matters.

(5) It is universal if it extends to all mortal sins. The determination to avoid all mortal sins taken in the bulk, even if it is merely virtual or implicit, is sufficient.

(c) It is efficacious if it extends to the determination of taking all necessary means to avoid all mortal sins in future. It is proved to be efficacious if some serious means are adopted. Its efficaciousness will be suspect if no means are adopted when they could easily have been adopted. But relapse into sin is not necessarily a sign of want of true determination, for habits of sin are not easily nor at once overcome.

SECTION 2. The Purpose of Amendment for Venial Sins

1. This purpose must be firm and efficacious. If only venial sins have been confessed, there must be a firm purpose of amendment to avoid them in future. This determination is implicit in true sorrow.

2. The purpose is efficacious if the penitent is determined to take the necessary means to avoid the venial sins confessed. Relapse into the same venial sins is practically certain, but that may be due to frailty, not to the lack of determination at the time of confession.

3. Venial sins of one species can be forgiven though the penitent may not be willing to regret all venial sins of a species different from those confessed. In that sense, the purpose of amendment to avoid all venial sins need not be universal for a valid absolution, since some venial sins can be forgiven apart from other venial sins being forgiven.

CHAPTER XIII

ACTUAL CONFESSION

SECTION 1. The Qualities of Confession

The chief qualities of confession are that it must be truthful, oral and complete.

I. Truthfulness in regard to the necessary matter of confession is essential to the validity of absolution. To tell a lie about a mortal sin which has to be confessed is a sacrilege as it renders absolution invalid. It is also a grievous sin to confess mortal sins which have not been committed in order to deceive the confessor. A lie concerning a venial sin, or some circumstance not relevant to confession, is not a grave sin and the absolution would be valid if some matter proper for absolution

had been confessed. False accusation of venial sins, if no sufficient matter had been confessed, is a grave sacrilege as it renders the absolution invalid.

2. Confession must, if possible, be oral, but if not, it may be made by signs, or in writing. A dumb penitent may make signs only. Confession in writing should, as a general rule, be discouraged as it may lead to scruples and pharisaical minuteness. If a confession is sent by letter, the penitent must signify that he accuses himself of what is contained in the letter in presence of the confessor, and absolution must be given to the penitent whilst he and the confessor are mutually present. Absolution from sins cannot be given unless confessor and penitent are mutually present; confession and absolution by telephone is doubtfully valid, but if no other method of communication is possible in an urgent case, confession and conditional absolution may take place by telephone.

3. Confession must be complete.

(a) Confession is materially complete when all mortal sins committed after Baptism not yet submitted to the keys for absolution are confessed. Confession is formally complete when all mortal sins which a penitent can and must confess here and now are in fact confessed. Formal completeness is always necessary; material completeness is not always possible, for a penitent may forget a sin, or may sometimes not be obliged to confess some sin, as will be explained.

(α) In order that mortal sins may be said to be completely confessed their theological and moral species, if serious, must be confessed. Sins differ theologically inasmuch as some are more serious than others; they differ morally inasmuch as some have a malice which others have not and some have an additional malice, as adultery compared with fornication, the former being contrary to justice as well as to chastity. But merely aggravating circumstances, as the duration or intensity of a mortal sin, need not be confessed.

(f) The exact number of mortal sins must be confessed. If the number cannot be remembered or determined, an approximation to it must be confessed. If the approximation be found to be in excess of the actual number, nothing more need be done; if it was less than the actual number, then although all mortal sins have been forgiven, their number has not been confessed and the penitent must rectify the mistake in the next confession. But a small error need not be corrected, since in common speech, if we use the approximation about six, the actual number might have been seven, and those numbers are included in the approximation. In the case of very many sins when even an approximate number cannot be given, it is sufficient to confess some approximate number of sins committed during a day or a week or a month. If even this cannot be stated, the penitent may confess

habitual sins extended over a period of time, such as a year. When many sins are committed through habit, but without full advertence to each, as in bursts of anger, confession of the habit is sufficient.

(ε) The external act of sin must be confessed for the external act is forbidden, as murder.

(*) The effects of a sinful act which takes place when the will has ceased to act are not sins, but we may be obliged to prevent the harmful results of our acts. An evil effect may be voluntary only in its cause, and to that extent it is imputable. Consequently it is sufficient to confess the cause, namely, the sinful act with the prevision of its evil effect, if the effect was not directly willed in itself. But when the effect of a sinful act is visited with an ecclesiastical penalty, the effect itself must be confessed if it was foreseen as a direct and immediate effect of the act. If, however, the effect did not follow until after the agent confessed the sin and was absolved, then it is very probable that the evil effect which followed subsequently need not be confessed, and no ecclesiastical penalty would be incurred if it is proved that absolution was given before the effect took place.

(/) Time does not pertain to the completeness of a confession. It is probable that a recently committed sin deceitfully confessed as if it had been committed long ago does not invalidate the absolution. But to confess many recently committed mortal sins as though they had already been confessed and absolved appears to be a grave sin, inasmuch as the confessor's judgment is falsified, he cannot act as judge and will not impose a grave penance. But if a penitent acted thus in good faith, there is no strict obligation to repeat the confession.

(g) The confession of mortal sins made to one confessor and of venial sins made to another confessor in that order is valid. But the confession would be invalid *if the* contrary order was adopted.

SECTION 2. Confession of Douhtful Sins

1. In cases of doubt the following rules are given in accordance with the principles *of* probabilism:

(a) When a penitent seriously doubts about his having committed a mortal sin he is not bound to confess it.

(α) When he seriously doubts about its gravity, he is not bound to confess it.

(c) When he seriously doubts whether or not he has confessed a mortal sin certainly committed, he is not bound to confess it.

(d) When such doubts are practically negligible he must confess.

2. The rules here given should not be adopted in practice always, for what is true in theory is not always expedient. Consequently ignorant or uneducated penitents should be urged to confess doubtful

sins; scrupulous penitents should not be allowed to do so; normal penitents might be advised but not obliged to do so, especially if by confessing them they would feel some mental relief.

3. As to doubtful consent, penitents who are lax in their religious duties should be urged to confess the sin to which doubtfully they gave consent, the scrupulous should be forbidden to do so, the normal penitent should be advised but not obliged to do so.

SECTION 3. Reasons which Excuse from Material Integrity of Confession

1. Physical causes excuse, such as extreme sickness, defect of speech, want of time, ignorance, forgetfulness. If omitted sins are remembered later on, they must be confessed if mortal. Though want of time will sometimes excuse from material integrity, Pope Innocent XI (1679) condemned the proposition that it is permissible to give sacramental absolution to those who have made a partial confession on the plea that a great concourse of people are waiting for confession, such as, for example, might be the case on a day of some great festivity or indulgence.

2. Moral causes may excuse from material integrity, as the following:

(a) Grave harm or inconvenience, certain or probable, spiritual or temporal, of oneself (the penitent), or of another, even of the confessor.

(α) Danger of scandal, incitement to sin, a probable fall into sin on the part of penitent or confessor.

(c) The risk of violating the seal when a confessor makes his own confession.

(d) The risk of being overheard by others, or if a lengthy confession would defame penitent or confessor, danger of infection or contagion, certain or probable loss of office, persecution by a Superior, grave scrupulosity, this last named reason being one that justifies a confessor forbidding a penitent to confess certain types of sins.

(ε) An almost invincible repugnance to a particular confessor, as of mother confessing to son, sister to brother, aged priest to an inexperienced curate, or friend to intimate friend. It is not the repugnance to confession as such that is here meant, but to confession to a particular confessor. Authors hold that such repugnance is extrinsic to confession. Though this excuse avails theoretically, it would be inexpedient to teach it.

(/) When a sin cannot be confessed without revealing the identity of the accomplice in the sin it need not be confessed, but there must be a serious reason for the confession, so that if confession could be deferred until a confessor was found who could not suspect who the accomplice was, then confession should be deferred, if possible. Never-

theless a penitent may have a good reason for confessing, even if by doing so the accomplice in his sin becomes known, for he may need particular advice and help, and, of course, ought not to wish to remain in mortal sin.

SECTION 4. Omission Rectified

1. A mortal sin which has been legitimately concealed, i.e. not mentioned, or denied with sufficient reason in confession, must be confessed in the next confession made, unless the sin may again be legitimately concealed.

2. A mortal sin forgotten in a confession must, if remembered, be confessed in the next confession; this is a grave obligation even though the sin has been indirectly forgiven.

3. If a confessor has no faculty to absolve a reserved sin and if he does not or cannot use the power given to him by law (c. 900), he can absolve the penitent from the sin indirectly, but must tell him to submit the reserved sin to a confessor who can absolve him directly, or tell the penitent to return when the confessor had obtained faculty to absolve directly. But direct absolution can be given, if it is seriously inconvenient to a penitent to remain in grievous sin (c. 900, 2).

SECTION 5. Necessary Repetition of Confession

1. A certainly invalid confession must be rectified by a valid one. A probably invalid confession need not be repeated, for the obligation to do so is doubtful, though a penitent, if not scrupulous, should be advised to repeat the confession.

2. A confessor may be the cause of an invalid confession, or he may, through inadvertence, not have given absolution. If the penitent discovers that such was the case, the confession must be repeated; but if the same confessor is approached and if he remembers the sins confessed, the penitent need confess only in general terms, reminding the confessor of the previous confession.

3. A confession is invalid if the penitent had not the requisite sorrow, or no sufficient purpose of amendment, or if a mortal sin had been illegitimately concealed, or if a lie w'as told deliberately about some serious matter that had to be confessed.

If a different confessor is approached, the whole of the invalid confession must be repeated, and the sin of the sacrilegious confession must also be confessed.

If the same confessor was approached, it is usually sufficient to confess the sacrilege and the mortal sin or sins omitted, as well as others which may have since been committed, without specific mention of the sins already confessed if the confessor remembers them; if

lie does not, as may usually be the case, a summary confession of them will suffice, if it recalls them to the mind of the confessor at least confusedly. But it is best to make a complete confession in order to preclude future anxiety.

4. When a penitent has made a sacrilegious confession and has been to confession subsequently, having forgotten the sacrilege, and not realizing that the mortal sins confessed in the sacrilegious confession should have been confessed again, his later confession is valid and there is no need to confess again the mortal sin confessed in it, though, of course, the sacrilegious confession and all the mortal sins mentioned in it, and any others that should have been mentioned must be confessed if remembered.

SECTION 6. General Confession

1. A general confession is a confession of all the sins of the past or of some definite period of life. Such confessions may be necessary, useful, or harmful.

2. A general confession is necessary when grievous sins had been wrongly concealed in confessions over some period of time, or from the first confession made. It may be advised, though not imposed, when a penitent who is not scrupulous doubts about the validity of past confessions. It may be permitted occasionally but not to scrupulous penitents.

3. A general confession is useful in time of missions or retreats or jubilee, or when a penitent wishes to break with the past and make a fresh start, as when entering upon a new state of life such as the novitiate, priesthood, or the married state.

4. When, as a fact, a general confession is to be made or may be made, the conscience should be examined diligently, regard being paid especially to the duties of one's state of life.

5. If the confessor is asked by the penitent for help, he must suit the questions to the penitent and not harry him with useless questions which do not apply to the case. No general scheme of questions is suitable to all. The confessor should concentrate on the important points in the Commandments of God and of the Church, the duties of a state of life, the laws of fasting and abstinence, annual confession and paschal Holy Communion, some of the deadly sins, as pride, intemperance and sloth, the sins opposed to faith, hope and charity, sins of cooperation with others in sin and scandal.

6. For more detailed questions, the following may serve as categories from which to select appropriate questions, suiting them to the character of the penitent, his occupation, surroundings and state of life.

(a) Prayers, fréquentation of the Sacraments.

(3) Cursing, swearing, oaths, blasphemy, vain use of God's name, vows.

(c) Mass on Sundays and holy days of obligation; servile work.

(</) Duties of parents to children, care of education, religious, moral, physical, intellectual; children's companions and recreations. Duties of husband, peace, love, concord; duty of correction by husband when necessary. Duty of wife, peace, love, concord, obedience to, and respect of, husband. Duties of children, love, respect, honour, obedience, assistance of parents. Duties of brothers and sisters, love, good example, gentleness. Duties of servants, honest work, care of what is entrusted to them, honesty.

(«) Quarrels, fighting, hatred, revenge, killing, wounding, scandal.

(/) Evil thoughts, desires, reading, conversation, looks, consent to sexuality, external sins against chastity, alone, with others, of the same or the opposite sex, with relatives, with persons under vow, or tutelage, improper shows, plays, dances. If married, sins against marriage vows, or the right use of marriage.

'j·· u. (g) Theft, cooperation in theft, receiving stolen goods, dishonesty in business, damage to property, violation of contracts, overcharge or underweight in selling.

(A) Lying, detraction, calumny, revelation of secrets.

(x) Unjust desire of the goods of others, jealousy, envy.

(J) Duties of state of life, if not included above, as those of trustees, solicitors, barristers, judges, doctors, nurses, guardians, teachers, directors of companies, public officials, shareholders in questionable businesses.

(A) The laws of the Church, especially those dealing with fasting, abstinence, hearing Mass, necessary instruction, support of pastors, annual confession, paschal Holy Communion, membership of forbidden societies.

(Z) Intemperance in food or drink, sloth in work and in spiritual duties.

(m) Doubt or denial of articles of faith, taking part in heretical services, reading heretical books, spiritualism.

(n) Presumption on God's mercy, despair, fatalistic views.

(o) Hatred of God or neighbour, neglect of almsgiving.

•V

CHAPTER XIV

PLACE AND TIME FOR HEARING CONFESSIONS
(cc. 90B-910)

SECTION 1. The Place

i. The proper place for hearing confessions is a church, or an oratory, whether public or semi-public. The confessional for women's confessions should always be situated in an open and conspicuous position and generally in a church, or public, or semi-public oratory, and in a place reserved for their confessions. The last part of this prescription allows of exceptions. With permission of the local Ordinary, the sacristy, or a room contiguous to the church, may serve as their confessional, and even a screen may serve as a sufficient separation between confessor and penitent.

2. The confessional screen should be fitted with a grating permanently fixed, and with small perforations. A curtain is often attached to the screen.

3. Confessions of women may not be heard outside the ordinary place determined for them, except in cases of sickness or other real necessity, and then with the safeguards that are judged opportune by the local Ordinary.

4. The confessions of men and boys may be heard in a private house or room, in which case there is no need for the screen.

5. The confessions of nuns must be heard in an approved place.

SECTION 2. The Time

Confessions may be heard at any time, day or night, but the time should be arranged so as to allow penitents to return home before nightfall unless they live in well-lighted towns. Children should be discouraged from going to confessions in the dark evenings.

Note

In hearing confessions a confessor should wear cassock, cotta and purple stole. This rubric is directive. Confessors who are Religious should wear cassock and purple stole and may dispense with the cotta if they have a privilege to that effect. Custom may justify dispensing with the cotta in the case of other priests.

CHAPTER XV

ABSOLUTION OF AN ACCOMPLICE
(cc. 884, 2367)

i. An accomplice in this context means any person (male or female) with whom a confessor (even before his ordination to the priesthood) has grievously sinned against the sixth Commandment; the former is termed the accomplice of the confessor.

2. The sin in question must have been a grave sin against the sixth Commandment both externally and internally, i.e. both objectively and subjectively, on both sides, and a sin in a mutual act between both parties, that is, with mutual cooperation in the external sinful act.

3. The law concerning this matter is as follows:

(a) A confessor who absolves, or pretends to absolve his accomplice, incurs *ipso facto* excommunication reserved most specially to the Apostolic See, even if he does so in the danger of death of his accomplice, if another priest even not approved for confessions can hear the confession of the said accomplice, without grave defamation ensuing to either accomplice, or scandal arising, unless the accomplice refuses to confess to a confessor other than the accomplice confessor (c. 2327).

(5) The excommunication is incurred if the accomplice confessor absolves or pretends to absolve his accomplice, when the latter omits to confess the sin of complicity, induced thereto, whether directly or indirectly, by the said confessor (c. 2367, §2).

(c) The confessor is excommunicated if he persuades his accomplice that the sin which they are about to commit together is not a sin at all, or not a grave sin, whereas it is grave, and so absolves or pretends to absolve the accomplice who confessed other sins but not the mutual sin committed (S.O., Nov., 16, 1934).

ucidations

1. The excommunication is incurred only when the accomplice confessor commits a grave sin in absolving.

2. It is incurred if the confessor labours under ignorance that was crass or studied, but not if it was simply culpable and even seriously so.

3. The absolution is probably valid if given in good faith.

4. If, when the sin was committed, the confessor was not known to be a priest at all nor this particular priest, if he absolves his accomplice who does not recognize him, he is not excommunicated.

5. If the accomplice is in grave need of absolution and no other

confessor is available except the accomplice one, then by absolving the accomplice the confessor does not incur the excommunication, but must tell the penitent to confess the sin to another confessor for direct absolution from it.

CHAPTER XVI

SOLICITATION
(cc. 894, 904, 2363, 2368)

1. Solicitation in this context means inducement by a confessor of a penitent to sin grievously against the sixth Commandment mutually, or personally, or to convey the inducement to another person in behalf of the confessor. The inducement can be afforded by acts, words, writing that are not seriously sinful, and that are even indifferent in themselves, if the evil intention of the confessor is expressed or manifest.

2. Solicitation can take place during actual confession, or immediately before or after confession, or on the occasion of confession (that is, when a penitent is on the point of confessing even if no confession follows), or on the pretext of hearing confession even if no confession follows, and finally, if, having no immediate connexion with confession, it takes place in the confessional or any other place serving as, or chosen for, confession, provided that there is some appearance of a priest acting as confessor.

3. The law in this matter is as follows:

(a) A confessor guilty of solicitation is to be punished by being suspended from saying Mass and hearing confessions, and also, in accordance with the gravity of his offence, declared incapable of hearing confessions, deprived of all benefices, dignities, active and passive voice, declared incapable of these, and in more serious cases degraded (c. 2368, §1).

(α) The person solicited by the confessor must denounce him to the local Ordinary, or the Holy Office, within a month (c. 904). If this prescription is deliberately disregarded, the aforesaid person incurs excommunication, not reserved, and cannot be absolved until the prescription is fulfilled, or a serious promise given to fulfil it (c. 2368, §2). If this obligation is not fulfilled, the excommunication is not incurred a second time but the grave obligation persists.

(r) A confessor other than the guilty one must warn the solicited person of the obligation of denunciation.

(J) False accusation of an innocent confessor of having been guilty of solicitation is a sin reserved to the Holy See (c. 894), and carries

with it an excommunication specially reserved to the Holy See. This excommunication cannot be absolved unless the false charge has been formally withdrawn within a month, in presence of the Superior or his delegate, and the harm that ensued has been repaired.

Elucidations

1. Only the solicited person is obliged under censure to denounce the guilty confessor.

2. The guilty confessor is not bound to denounce himself, but if he does so, he will be treated more leniently (S.O., Feb. 20, 1867).

3. The month assigned is a calendar month from the day on which the obligation became known. If denunciation within the month was not possible, the obligation must be fulfilled as soon as possible.

4. Solicitation can take place though a penitent gave no consent to it, or was so ignorant or simple as not to understand the drift of it.

5. Solicitation can take place by means of a document to be read later on, or to be given to a third party, if in the latter case the penitent knows the contents of the document, at least in general.

6. Solicitation can take place if the confessor acceded to solicitation by the penitent.

7. Solicitation must have been quite certain, so that denunciation is not to be imposed unless the fact of solicitation was absolutely established.

8. The guilty confessor must be denounced even if he had no faculties for hearing confessions, and even if, being a true confessor, he has reformed his life—probably not, however, if he is so reformed that no lapse at all is apprehended; even if he has confessed his guilt he is to be denounced.

9. A solicited penitent cannot evade the obligation of denouncing by confessing to the guilty confessor on the plea—which is true—that the latter is not obliged to warn the penitent of the obligation (Pope Alexander VII, pr. d. 7).

10. Denunciation by letter is not sufficient, for it must be made personally in presence of the Ordinary or his delegate; a confessor may, with permission of the penitent who feels intense difficulty in denouncing, report the case to the local Ordinary or the Holy Office without revealing names.

11. Denunciation may sometimes be deferred for a good reason, but denunciation by letter may not be omitted, even if judicial denunciation cannot be made.

12. A penitent's grave fear or harm, spiritual or temporal, excuses from denunciation, unless common harm or scandal would arise from failure to denounce.

13. Although a solicited penitent may have yielded to the suggestion,

that reason does not excuse from denunciation, since no inquiry concerning the behaviour of the penitent is allowed.

14. Confessors must be wary in believing female penitents who accuse their confessors of solicitation, as they have to guard against malice and exaggeration.

CHAPTER XVII

INDULGENCES
(cc. gi 1-936)

SECTION 1. Nature and Kind of Indulgences

I. An indulgence is a remission of temporal punishment due to forgiven sin. Indulgences are granted to the living by way of discharge of debt, and this effect is, of its nature, infallible; they are granted to the dead as an intercessory prayer to God in their behalf, and this effect is not infallible, but like all prayer depends on the acceptance of God.

2. A plenary indulgence remits all the temporal punishment, so far, that is, as the intention of the Church is concerned. A partial indulgence remits part of the punishment. A plenary indulgence granted by the Church is not always gained, for the recipient may be in venial sin, so that the canons state that the concession of a plenary indulgence is so to be understood, that if one is unable to gain it completely, part of it can be gained in proportion to one's spiritual dispositions. Partial indulgences are now expressed in days and years, which means the equivalent of the corresponding periods of ancient canonical penance.

3. A personal indulgence is one granted to an individual or a corporate body. A real indulgence is annexed to a thing, as a rosary or crucifix. Several indulgences derived from different titles may be annexed to one and the same thing, as a rosary.

4. A mixed indulgence is one that is granted to an article in behalf of an individual.

5. A local indulgence is attached to a place, as a church, altar, shrine.

6. A perpetual indulgence once granted always persists. A temporary indulgence is one granted for a definite period.

7. An indulgence is applicable to the Holy Souls or to the living or to both, in accordance with the grant. All indulgences gained by one who has taken the heroic act are applicable to the Holy Souls. This act is the transference to the Holy Souls of all the indulgences gained

in life and after death. The act is revocable wholly or partially or for a time. An indulgence gained by one person cannot be applied to another living person.

8. A jubilee indulgence is a plenary one with certain privileges annexed, such as dispensation from some vows and absolution from certain reserved cases.

SECTION 2. Clauses Employed in Granting Indulgences

1. The term, *in forma ecclesiae consueta,* meatis that an indulgence is granted to those who are in the state of grace.

2. The term, under the usual conditions, means the intention of gaining the indulgence, confession, Holy Communion, a visit to a church or public oratory, or semi-public oratory in the case of those who are entitled to use the latter, and prayers for the Pope's intentions. When any of these conditions are not required, a statement to that effect is made.

SECTION 3. Conditions for Gaining Indulgences

1. The intention of gaining the indulgence. This may be a general one and need not be specific. Habitual intention is sufficient but an actual one is to be commended.

2. Capacity of the subject, which includes Baptism, absence of excommunication, the state of grace at least on concluding the prescribed pious works—the state of grace being signified by the term with contrite heart—and relationship of subject to grantor.

3. Fulfilment of the works enjoined:

(a) The works enjoined must be performed at the appointed time and in the proper way. An inconsiderable change in the prayers prescribed, if not substantial, does not invalidate the indulgence (S. Pcenit., Nov. 26, 1934).

(ȯ) The pious work enjoined must not be already obligatory under sin, unless the contrary is expressed in the grant, but a sacramental penance and paschal Holy Communion are capable of being indulgenced.

(c) The work fulfilled must serve the purpose for which it was enjoined.

(cT) Several indulgences cannot be obtained by the fulfilment of the one pious work, except that separate indulgences can be gained by one recital of a rosary if it has several indulgences annexed to it, and confession need not be repeated by those who confess twice each month or receive Holy Communion nearly every day.

(*) The pious works may be performed in any order.

4. A confessor can commute the pious works enjoined for a good reason in or out of actual confession in the case of those persons who cannot perforin the works.

5. The indulgences applicable to the Holy Souls may be applied to one of the Holy Souls or to several or to all, but the indulgence of a privileged altar must be applied to the Holy Soul for whom the Mass is offered; but the Pope can grant an additional plenary indulgence for a Holy Soul at the choice of the celebrant. The state of grace is not necessary in a person who applies an indulgence to the Holy Souls unless in the induit the term, with at least contrite heart or some equivalent, is employed. It is not required for gaining the indulgence of a privileged altar on the day of the Commemoration of All Souls.

SECTION 4. The Works Enjoined for Gaining Indulgences

1. Confession

(a) If confession is enjoined, it must be made even if only venial sins are confessed, but absolution is not then necessary.

(b) The confession needed for the gaining of an indulgence may be made within eight days immediately preceding the day for which the indulgence is granted, or on the day itself, or within its octave. For gaining the indulgence of a triduum or a week of pious exercises, the confession prescribed may be made within the succeeding octave.

(c) The confession enjoined need not be made by those who are accustomed, unless legitimately prevented, to confess at least twice a month, or who daily, with even one or two interruptions in the week receive Holy Communion in the state of grace and with pious and right intention. This rule does not apply to jubilee confession.

2. Holy Communion

(a) The Holy Communion prescribed may be made on the eve of the indulgence day, or on the day itself, or during its octave.

(£) For the indulgences granted for pious exercises during a triduum, week, etc., the prescribed Holy Communion may be received on the day itself or during its octave.

(r) Paschal Holy Communion may be reckoned as the prescribed one except for a jubilee.

3. Visit to a Church

(al The prescribed visit to a church, if the church is not specified, may be made to any church, or public oratory, or for those entitled to use it, a semi-public oratory. Such visit may be made at any time from midday of the eve to midnight of the indulgenced day.

(i) When the church for the visit is not specified, the faithful of

each sex who, with the approval of the Ordinary, live in community for purposes of perfection, education, or health, in houses that have no church or public chapel attached to them, may visit the chapel of their particular house wherein they can lawfully satisfy the obligation of hearing Mass, and can thereby gain the indulgence, provided that they duly fulfil the other pious works prescribed.

(c) A church is visited when it is entered for the purpose of worshipping God there; set prayers are not necessary unless prescribed. If it is impossible to enter the church, it is sufficient to stay at the door. Separate visits must be made for repeated indulgences when a visit is prescribed for each, as for the Portiuncula indulgence.

(a) If a prayer is prescribed it must be recited orally, but indulgenced ejaculations may be mentally recited (S. Pœnit., Dec. 7, 1933). The prescribed prayers may be recited alternately with other persons, or mentally attended to whilst others recite them. The dumb can gain indulgences attached to public prayers if they are in the company of others who are reciting the prayers, and if they raise their minds and pious affections to God. In the case of private prayers, they may recall them mentally, or pray by gesture, or scan the words with their eyes. Usually no set prayers are prescribed; but when they are not, it is sufficient to recite once the *Pater, Ave* and *Gloria,* or any other prayer at choice (S. Pœnit., Sept. 20, 1933). If kneeling is prescribed, one who cannot kneel can gain the indulgence by reciting the prayers.

(α) The prayers are to be said for the Pope's intentions, which are the exaltation of the Church, the extirpation of heresy, the propagation of the faith, the conversion of sinners, peace and concord among Christian princes. The intentions need not be remembered or adverted to consciously.'

(r) The prayers may be recited in any vernacular, but a printed version must have the approval of the Sacred Penitentiary, or an Ordinary of the country of the vernacular. An exact written version probably does not need this approval. The Little Office of Our Lady, if recited publicly, must be the Latin version.

SECTION 5. Commutation of the Prescribed Works

(a) A confessor can commute the prescribed pious works for those persons who, being legitimately prevented, cannot perform them. In doubt, the subject may be favoured. Commutation may be given even for the visits prescribed for the Portiuncula indulgence (P.C.C.J., Jan. 19» 194°)· This commutation can be given outside confession unless the contrary is stated.

(ά) The substituted work must substantially serve the object or purpose of the indulgence. Thus indulgences granted for frequent Holy Communion suppose frequent Holy Communion.

SECTION 6. Indulgenced articles

(a) Articles blessed for the Apostolic indulgences, as rosaries, medals, statues, may be carried on the person or kept at home; in the latter case, the prayers must be recited in presence of the blessed article. If the indulgenced rosary or crucifix for the Way of the Cross cannot be held in the hand owing to manual occupation, or any other reasonable cause, it is sufficient to have the article on the person, v.g. in the pocket, or hung round the neck (S. Pœnit., Nov. 9, 1933). These objects may not be made of tin, lead, glass, or material easily broken or worn out (S. Pœnit., Feb. 17, 1922), but solid glass or crystal may be blessed *(loc. cit.,* Dec. 21, 1925).

(ὁ) The indulgence annexed to a rosary is not lost if the rosary is lent or given away (S. Pœnit., Feb. 18, 1921).

The use of probable opinions in the matter of indulgences most probably does not affect them, but conditions should be fulfilled exactly.

SECTION 7. Cessation of Indulgences

1. Personal indulgences cease on the death of the privileged person, or by the renunciation of them accepted by the Pope, or by revocation of them by the Pope.

2. The real indulgences attached to a rosary or other object cease only when the object is wholly destroyed or sold, but one who buys a rosary, or other object, may have it blessed before it is bought. If some, but not the majority, of the beads of an indulgenced rosary are lost they may be replaced by other beads without the indulgence being lost. The beads are blessed, not the chain, so that the beads may be restrung in any order.

3. The local indulgence attached to a church or oratory ceases if the said place is wholly destroyed, unless within fifty years it is restored, or begun to be restored, in the same or almost the same place—within twenty or thirty paces—and with the original title; the indulgence is then restored.

SECTION 8. Some Particular Indulgences

1. The Papal Blessing Given to the Faithful

(a) A papal blessing enriched with a plenary indulgence can be given by a Bishop in his diocese three times a year, namely, on Easter Sunday and two other solemn feast days (S. Pœnit., July 20, 1942),

even if he does not celebrate but only assists at Mass. The indulgence is now always given according to the formula of the Roman ritual (tit. viii, c. 32; S.R.C., March 12, 1940).

(ȯ) An Abbot or Prelate of independent jurisdiction, a Vicar or Prefect Apostolic, even not raised to episcopal dignity, can give the same blessing in their respective territories only on two of the more solemn feasts.

(i) Regulars who have the privilege of giving this blessing may not give it except in their churches and in those of nuns and tertiaries legitimately aggregated to them but not on the same day or in the same place as the Bishop. This rule does not affect the papal blessing given at the end of missions or retreats.

2. Apostolic Indulgences

These indulgences are announced by the Pope at the beginning of his pontificate. They are attached to pious objects blessed by the Pope or one delegated by His Holiness.

3. Privileged Altar

(a) A privileged altar is one which is enriched with a plenary indulgence for Mass celebrated at that altar (cf. Treatise xv, c.x, 1, f).

(Ô) The privilege granted by Pope Benedict XV to priest members of the Pious Union of the Death of S. Joseph of a privileged altar whenever they celebrate Mass for the dying is to be understood as for the living by way of absolution (S.O., Nov. 9, 1922, private).

4. A Prieet'e First Mass

Those of the faithful who devoutly assist at the first Mass of a priest, if they are blood relations to him in any degree up to the third inclusive, can gain a plenary indulgence, if they have obtained forgiveness for their sins, received Holy Communion, and prayed for the Pope's intentions *{Preces et Pia Opera,* n. 676). Others who assist at the said Mass can gain an indulgence of seven years *{loc. cit.).* The priest himself who celebrates his first Mass can gain a plenary indulgence if he has confessed and prayed for the Pope's intentions. An indulgence of one hundred days may be gained by kissing the palms of the hands of a newly-ordinated priest, as well on the day of his ordination as on that of his first Mass *{loc. cit.,* nn. 742, 676).

5· First Holy Communion

A plenary indulgence on the usual conditions may be gained by one who receives first Holy Communion, and by those who assist at the pious ceremony *{Preces et Pia Opera,* η. 151).

6. Tlie Gregorian Mannes

The Gregorian Masses for one deceased (thirty in number) are piously believed to have special efficacy. They may be celebrated at any altar, but must be said by the priest who undertook to say them, or his substitute, on thirty consecutive days, one Mass only each day. There is no obligation to say Requiem Masses. The series may be interrupted by the last three days of Holy Week, or by a Mass ordered by the Pope. If the series has been unavoidably or inadvertently interrupted, in default of condonation by the donor of the alms for the Masses, application may be made to the Holy See for dispensation.

7. Indulgences at the Hour of Death

There are many titles on which a plenary indulgence at the hour of death can be gained (cf. *Preces et Pia Opera,* S.V. *Articulus mortis).* One of these may be mentioned. The faithful who at any time during life with sincere affection of love of God, resolved on even only one occasion, with at least contrite heart, willingly to accept from God whatsoever kind of death it should please Him to send them, together with all its agonies, pains, and sorrows, can gain a plenary indulgence. The usual conditions must be fulfilled and the Holy Name of Jesus invoked *{loc. cit.,* 367).

8. Apostolic Blessing at the Hour of Death

The Apostolic blessing given by a priest to a dying person in accordance with the formula set forth in the Roman ritual (tit. v.c. 6), is enriched with a plenary indulgence. This blessing is given after the Last Sacraments. The dying person, if conscious, being contrite, must be willing to accept death from the hand of God, and must invoke the Holy Name of Jesus with the lips, or if that is not possible, in the heart. The actual indulgence is received at the moment of death. The blessing is not repeated during the same dangerous sickness, not even if the dying person had to confess and be absolved from mortal sins committed after the blessing had been given. The person must be in the state of grace at the moment of death. The blessing may be given to the unconscious. Children have a right to the blessing if they have reached the use of reason, even if they have not made their first Holy Communion. The blessing is not to be given to the excoMill unicated, the impenitent, nor to those dying in manifest mortal sin, but it could be given conditionally when they become unconscious.

9. Some Tolies Quoties Indulgences

a. All Souls Day

An indulgence on this day applicable to the Holy Souls for each visit paid to a church, or public oratory', or for those entitled to

use it, a semi-public oratory, from midday on the eve of All Souls Day to midnight on the day itself, and the recital during the visit of six times the *Pater, Ave* and *Gloria* for the intentions of the Pope. Other conditions are confession and Holy Communion. This indulgence can be gained on the Sunday following Nov. 2. by those who were unable to gain it on that date *{Preces et Pia Opera,* η. 590).

b. Portiuncula Indulgence

This indulgence can be gained for each visit to a church or oratory of the Franciscan Order, or any other privileged church or oratory, from midday on August 1 to midnight on August 2, and also on the Sunday following, if that day has been designated by local Ordinary or Rector (S. Pœnit., July. 10, 1924). At each visit the *Pater, Ave* and *Gloria* must be recited six times for the Pope's intentions; confession and absolution, if necessary, and Holy Communion are also necessary, but they may be made the day before or within the octave (S. Pœnit., in *Acta* O.F.M., 1928, 117). The Sacred Penitentiary (May 1, 1939) decreed that all cathedral and parochial churches and other churches and oratories, for which, especially in large parishes, the local Ordinary thinks it would be for the benefit of the faithful, can obtain the privilege from the Sacred Apostolic Penitentiary on petition commended by the local Ordinary. A confessor can, in virtue of canon 935, commute the visit prescribed to a particular church for gaining the indulgences (P.C.C.J., Jan. 19, 1940).

c. Stations of the Cross

(f) Any of the faithful, singly, or in company with others, making the Stations of the Cross, legitimately erected, with contrite heart, can gain a *toties quoties* plenary indulgence as often as this pious exercise is performed. An additional plenary indulgence can be gained on the day of making the Stations by receiving Holy Communion, or if Holy Communion is received within the month during which the pious exercise was performed ten times. An indulgence of ten years can be gained for each Station, if the pious exercise had been begun and was not finished.

(Ü) Those on a sea voyage, or detained in prison, or sick, or living in pagan countries, or others legitimately prevented from making the Stations of the Cross in the usual way, can gain the aforesaid indulgences if they hold in their hand a crucifix blessed for the stations by a priest who has legitimate faculty to do so, and at the same time recite, at least with contrite heart and devoutly, twenty time the *Pater, Ave* and *Gloria,* that is, once for each of the Stations, five times in memory of the Sacred Wounds of Our Lord, and once for the Pope's intentions. If, however, they are unable to recite all the aforesaid prayers for gaining

the plenary indulgence, they can gain a partial indulgence of ten years for each recital of the *Pater, Ave* and *Gloria.*

(iii) The sick who arc unable, owing to grave inconvenience, to make the Stations of the Cross in cither the usual way, or in that mentioned above, can gain the indulgence if, with affection and contrite heart, they kiss, or merely gaze upon, a crucifix blessed for the Stations, when held before them by a priest or any other person, and recite, if possible, some short prayer or ejaculation in memory of the Passion and Death of Our Lord Jesus Christ *{Preces et Pia Opera,* η. 194).

(iv) To make the Stations, a meditation on the Sacred Passion or some aspect of it must be made at each Station; no vocal prayers are necessary, nor an oral act of contrition; a contrite heart is sufficient; nor are confession or Holy Communion or prayers for the Pope's intentions necessary. The state of grace and the intention of gaining the indulgence with contrite heart are sufficient.

The Stations must be visited in some way by bodily movement; if that is not possible, a priest with two clerics, cantors, or servers, may go round the Stations in behalf of the people, and recite prayers to which the people respond, turning towards the Stations successively. If this exercise is interrupted for confession, Holy Communion, or hearing Mass, the Stations should be completed.

(v) It must be observed that the indulgences are attached to the crosses which should be made of wood. The indulgences are not affected if the pictures are removed and replaced, or others substituted, the crosses remaining as they were. Some crosses, fewer than half the number, may be replaced by other crosses. It is appropriate that the Stations should begin on the gospel side, and as regards the figures, it is better that the figure of Christ should be followed rather than met.

d. The Rosary of the Blessed Virgin

(i) An indulgence of five years can be gained for reciting a third part of the Rosary.

(ü) If a third part of the Rosary is recited publicly or privately with others, the indulgences are:

(a) Ten years for recital once a day.

(Z›) A plenary indulgence on the last Sunday of the month, on the conditions of confession, Holy Co mu union, and visit to a church or public oratory', if the Rosary has been recited at least three times each week.

(in) A plenary indulgence *toties quoties* for recital with devout mind of a third part of the Rosary in presence of the Blessed Sacrament, exposed, or in the tabernacle, together with confession and Holy Communion.

(j'r) Indulgences for recital of a third part of the Rosary during October, publicly or privately are:

(a) Seven years for recital once a day.

(i) A plenary' indulgence for recital of a third part of the Rosary on the feast of Our Lady of the Rosary, and on each day of the octave, on the conditions ofconfession, Holy Communion, and visits to a church or public oratory'.

(c) A plenary indulgence for recital after the octave of the feast on at least ten days, on the conditions of confession, Holy Communion and visit to a church or public oratory'.

(r) A Rosary enriched with the Apostolic blessing carries a plenary indulgence to be gained at the hour of death.

Notes

1. The recital may be interrupted and the indulgence gained if the third part of the Rosary is said on the one day.

2. The Brigittine Rosary' is enriched with an indulgence of one hundred day's for each *Pater, Ave, or Credo.*

3. The Crosier Rosary is enriched with an indulgence of five hundred days for each *Pater* or *Ave* said on the beads.

4. Rosaries can be enriched with all Rosary indulgences, so that a particular pair of beads can be enriched with all the indulgences which can all be gained by the one recital.

5. To gain the indulgences, the beads must be held in the hand, unless some manual occupation prevents this, when it is sufficient to have the beads on the person.

6. The indulgences of the Rosary can be gained though recited in common together or alternately, even if only one person uses the beads.

7. Meditation on the mysteries of the Life, Passion and Death of Our Lord is necessary in the case of the Dominican Rosary.

10. The Scapular

a. The Form

A scapular must be made of two pieces of woven woollen cloth, square or oblong, of the prescribed colour, the two pieces being connected with tapes attached to the scapulars, not to the covers, so that the tapes hang over the shoulders and two pieces rest, one on the chest, the other on the back; it may be worn over the dress.

b. Kinds of Scapular

The commonest scapular is that of Our Lady of Mount Carmel. Other scapulars are those of the Blessed Trinity, the Sacred Passion, the Immaculate Conception, the Seven Dolours, Our Lady of Ransom, Our Lady, Help of the Sick, the Immaculate Heart of Mary, S. Michael

the Archangel, S. Benedict, Mother of Good Counsel, S. Joseph, the most Sacred Heart of Jesus, the Sacred Hearts of Jesus and Mary, S. Dominic, the Holy Face.

c. The Brown Scapular

The scapular of Our Lady of Mount Cannel, called the brown scapular, is the most ancient and celebrated. Besides the numerous indulgences attached to the wearing of it, a twofold promise of Our Lady was made, as is piously believed, for its wearers, namely, that they will not suffer eternal loss, and that if they die in the state of grace, they will be delivered from Purgatory as soon as possible, and especially on the Saturday immediately following their death. The conditions of obtaining the sabbatine indulgence, as it is called, are that they who wore the scapular or medal during life practised the virtue of chastity in accordance with their state of life, recited the Little Office of the Blessed Virgin (unless already obliged to recite the divine office), kept the ecclesiastical fasts and abstained from flesh meat on Wednesdays and Saturdays, except when Christmas Day fell on one of those days, instead of reciting the office if they were unable to read.

d. The Blessing and Enrolment

Those confessors who are entitled to bless the scapular may bless each or all together using the proper formula. They may place each scapular separately or all together, on the person enrolled. The priest entitled to enrol others may enrol himself. The name of the person enrolled must be entered in the register, unless enrolment is done by priests who have a privilege of dispensing from registration. Children may be enrolled before they have come to the use of reason. If several persons are enrolled together, each one is clothed with the scapular, but members of some religious Institutes may allow the recipients to place the scapulars on themselves.

For gaining the indulgences, both the scapular and the person enrolled must be blessed on the first occasion of enrolment, unless the priest has the privilege of enrolling several together and blesses all together.

A fresh scapular may be substituted for an old one, or one that has been lost, without renewed blessing. The scapular may be taken off for a short time, but if it is taken off for long, the indulgences lapse until it is worn again.

e. Scapular Medal

Since the year 1910, by favour of Pope Pius X, a single medal composed of metal could be worn in place of one or more scapulars by a person enrolled. This medal must have on one side a representation of

Our Lord displaying His Sacred Heart, and on the other an image of our Lady. It must be blessed by a priest who has the faculty of blessing the scapular for which the medal is substituted. The medal must receive a blessing for each scapular which it replaces. A sign of the cross suffices for each blessing. The medal must be worn continuously like the scapular, and if a fresh medal is substituted for one lost, it must be blessed. To the medal are annexed all the privileges and indulgences annexed to cloth scapulars. A soldier gains all the indulgences by wearing the medal, even if not enrolled.

11. The Crucifix

A plenary indulgence can be gained at the hour of death by kissing a crucifix blessed for that purpose. It is sometimes called a *toties quoties* crucifix, but the indulgence can be gained once only, not as often as the crucifix is kissed by the same person.

12. Divine Office

A plenary indulgence can be gained on the usual conditions by those in Sacred Orders who recite the entire office in presence of the Blessed Sacrament, exposed or not, and even if the office is recited with interruptions (S. Poenit., Oct. 23, 1930). A partial indulgence of five hundred days can be gained for reciting an hour of the office in the presence of the Blessed Sacrament exposed or not (loc. cit., May 18, 1933). It is not only those in Sacred Orders who can gain these indulgences. All inferior clerics, novices and students in a religious Institute, even if not obliged to recite the divine office, can gain the same indulgences (loc. cit., March 31, 1937). But novices or students of religious Institutes of women cannot do so (S. Poenit., Dec. 14, 1937), though nuns and all pious women living in community, who are obliged to recite the divine office daily, can gain the same indulgences (S. Pcenit., Dec. 5, 1930). The same indulgences can be gained by reciting the prayers substituted for the divine office (S. Poenit., Nov. 7, 1932).

TREATISE XVII

CHAPTER I

THE NATURE AND KINDS OF CENSURE

SECTION 1. Definition of Censure (cc. 2215-2219)

A censure is a penalty whereby a baptized person who is delinquent and contumacious is deprived of certain spiritual benefits, or of benefits connected with spiritual things, until having ceased to be contumacious, he is absolved (c. 2241). Censure is medicinal in its purpose. The term contumacy as employed here is the conscious and deliberate violation of law or precept under censure, or the continued disregard of legitimate admonition. Spiritual benefits are the Sacraments, the divine offices, such as Mass and prayers. Benefits connected with spiritual things are the fruits of a benefice, honours, dignities, rights. The secondary purposes of a censure are the punishment of wrongdoing and that it should act as a deterrent. A censure may be inflicted on an unknown delinquent. Though a censure primarily regards the external forum, it binds the conscience.

SECTION 2. Kinds of Censure

1. There are three species of censures, namely excommunication, suspension, interdict. The last two may be vindicatory.

2. Censure inflicted by law (a*jure}* is expressed in the law itself, or in a general precept; one inflicted by an individual *(ab homine}* is expressed by a particular precept, or injudicial sentence of condemnation; a censure *latæ sententiæ* is incurred *ipso facto* on commission of the delinquency to which the censure is attached; a censure *ferende sentence* to be incurred must be inflicted by judge or Superior.

3. Censures differ also by reason of the source of their absolution. Some are reserved for their absolution by law to the Holy See, either simply or specially or most specially; some are reserved by law to the local Ordinary; some are reserved to religious Superiors; some are not reserved, so that any confessor can absolve them in the internal forum. Lastly, some are reserved by the Superior to himself *(ab homine}.*

CHAPTER II

THE AUTHOR OF CENSURES
(*cc.* 2220-2225)

I. In general those who have the power of establishing law or of imposing a precept can inflict censures. The Vicar General cannot inflict censures without special mandate.

2. The following can inflict censures, namely, the Pope, an Ecumenical Council, the Roman Congregations and Tribunals with restrictions, local Ordinaries, a plenary or a provincial Council, the Cathedral Chapter before the election of the Vicar Capitular, the Vicar Capitular, Apostolic Administrator, Abbots and Prelates having independent jurisdiction of episcopal character over at least three parishes, Vicars and Prefects Apostolic, higher Superiors in clerical exempt religious Orders and their Chapters.

3. Delegated power to inflict censure can be given to a cleric, that is, one who has received at least first tonsure and is not laicised, or has not returned to the lay state.

CHAPTER III

THE SUBJECT OF CENSURE
(cc. 2226-2235)

i. Every living baptized human being on earth, having the use of reason and being capable of grave and deliberate transgression of law, can be censured if subject to the ecclesiastical prelate who inflicts the censure, and only such can be censured; exceptions may be made by law. Since all baptized persons on earth are subject to the Church, apostates, heretics and schismatics can be censured. Only individuals are subject to censure, not corporate bodies as such. One who is doubtfully baptized probably cannot fall under censure.

2. When one who has died is absolved from censure, this docs not mean that the Church has jurisdiction over the deceased, but that the living may bury such a one with the customary sacred rites. When a deceased person is excommunicated, that means that such a person may not be publicly prayed for or given ecclesiastical burial.

3. Those who have not reached the canonical age of puberty (m. 14,

f. 12, but for censures probably 14 for a female as well as male) do not incur censures *late sententia,* for the Church exempts them and wishes them to be subjected to educative correction. Those over puberty who induce such young people to violate law, or who cooperate with them in committing a delinquency, incur censures (c. 2230).

4. Only the Pope can inflict or declare censures against those who hold supreme authority in the State, their children and those who have the right of immediate succession; but these persons are not exempt from censures of general law (c. 2227). Cardinals do not incur censure except that for appealing to a General Council against the ruling of a reigning Pope (c. 2332), unless specially named, nor do Bishops (even only titular) incur suspension or interdict *ipsofacto.*

5. Those who have no fixed domicile or quasi-domicile where they are staying *{peregrini)* are not subject to censures inflicted by the local Ordinary in that place, unless the censures are annexed to laws which must be observed even by them, such as laws which safeguard public order and the common good, and those which regulate legal formalities of contracts and the like. Those also are subject in the same way who have no residence anywhere *{vagi).* But the local Ordinary can punish either of the aforesaid for a delinquency committed in his territory.

6. Those who are temporarily absent from their regular residence do not incur censures *lata sententia* that are in force in their own territory for the violation of the particular laws of their territory, unless the violation of the said laws do harm in their territory, or unless the laws are personal, but they can be censured by their own local Ordinary who retains jurisdiction over them.

7. Religious who are not exempt can incur censures inflicted by their local Ordinary.

8. Members of exempt religious Orders are not in general subject to episcopal censures, but there are some exceptions, indicated in the canons (cc. 616, 619, 831, §3, 1261, 1274, 1291, 1293, 1382, 1516). But members of the mendicant Orders are exempt from episcopal censures except in three cases, namely, for preaching in churches without permission of the local Ordinary, hearing confessions of lay people without episcopal approbation, exposing to public veneration images that are unusual or scandalous.

CHAPTER IV

DELINQUENCY
(cc. 2195-2213)

SECTION 1. Nature and Kinds of Delinquency

I. Deunquency is an external and morally imputable violation of law to which is attached some canonical sanction, at least an indeterminate one (c. 2195, §1). It must be grave, consummated, not merely attempted or incomplete, and consummated in that precise way which the law indicates. Thus the censure for abortion does not include craniotomy. Furthermore, the delinquency must be contumacious. Contumacy consists in some contempt of law' and censure. In censures that require sentence *(ferende sententia),* contumacy consists in disregard of admonition after delinquency, or neglect of sorrow for it or of the reparation of the scandal given. In other censures *(lata sententia)* the mere violation of the law', with at least an habitual knowledge of the censure, is contumacy.

2. Delinquency is public if it has been divulged or is likely to be divulged soon; it is materially occult if not knowm at all, or know'n to only a few', five or six, who are unlikely to divulge it; it is formally occult if its culpability is not known to others. It is notorious in law after valid, judicial sentence has been passed on it, from which there is no appeal, or after an avowal by the delinquent made in Court orally or in writing (cc. 2197, 1750). It is notorious in fact if it is publicly known, that is, know'n to at least a large part of the community, and committed in such circumstances that it cannot be concealed by any subterfuge, nor excused by any interpretation of law (c. 2197, §3).

SECTION 2. Imputohility of Delinquency

1. Whatever increases, diminishes, or takes away moral culpability, also increases, diminishes, or takes aw'ay imputability (c. 2199).

2. Delinquency is not imputed to those who have not the use of reason. Those who are habitually insane, though with lucid intervals, or insane in some respects but not in others, are presumed incapable of delinquency (c. 2201, §2).

3. Delinquency is not imputed when there are other grounds, such as confusion of mind, which excuse the delinquent from incurring the censure, and it is less imputable in proportion to want of perception (c. 2201, §§3, 4).

SECTION 3. Cooperation in Delinquency (c. 2209)

1. Those who by united design concur physically in committing a delinquency are held severally guilty, unless circumstances increase or diminish the culpability of some of the cooperators (c. 2209, §1).

2. In a delinquency which, of its nature, requires an accomplice, each person is equally culpable unless circumstances indicate otherwise (c. 2209, §2).

3. Chief among cooperators is he who gives orders for a delinquency to be committed. Others who induce a person to commit a delinquency, or who cooperate in committing it, are not less culpable, other things being equal, than he who executed it, if the delinquency could not have been committed without their cooperation. But if such cooperation was not necessary, but merely rendered the delinquency easier, it is less imputable (c. 2209, §§3, 4).

4. Those who, in due time, wholly withdrew the influence which they were exerting on another to commit a delinquency are exempt from all imputability, even if the one influenced persisted in his design and did so for reasons of his own. If the influence was only partially withdrawn, the imputability is not extinguished but lessened (c. 2209, §5).

5. Those who concur in a delinquency by merely neglecting to do their duty, are imputable to the extent to which they were, by their office, obliged to prevent the delinquency (c. 2209, §6).

6. To approve of a delinquency committed, to share in the benefits of it, to conceal or screen the delinquent, or to do similar things, if done after the delinquency has been committed, may constitute fresh delinquencies if there are legal penalties imposed on such actions. They do not, however, involve imputability for the committed delinquency if no agreement had been made with the delinquent in regard to those actions before the fact (c. 2209, §7).

SECTION 4. Attempted Delinquency (c. 2212)

1. Delinquency is attempted if a beginning is made of it by some action or omission which naturally would lead to its execution but no further action was taken, either because the would-be delinquent changed his mind, or could not complete his delinquency owing to insufficient or unsuitable means (c. 2212, §1).

2. Delinquency is termed frustrated when all acts or omissions which naturally lead up to its execution were sufficient, but failed of their purpose, owing to some cause other than the will of the agent (c. 2212, §2).

3. The act of one who tried without success to induce another to commit a delinquency is also regarded as attempted delinquency (c. 2212, §3).

4. If attempted delinquency has a legal penalty attached to it, then the attempt is regarded as a true delinquency, v.g. the attempt to fight a duel (c. 2212, §4). An attempt to commit a delinquency is more imputable the nearer the attempt reached the complete act, but less imputable than the complete delinquency (but cf. infra 6).

5. A frustrated delinquency is more culpable than one attempted.

6. A person who voluntarily desisted after having begun to execute a delinquency, or truly repented of his attempt, is free from all imputability if no harm or scandal ensued from the attempt, but in the external forum he may be regarded as under censure until the fact is established.

7. When an act is rendered null by law and the attempt to execute it is forbidden under censure, such as attempted absolution of an accomplice, the mere attempt is a delinquency and is visited with censure.

CHAFFER V

CAUSES THAT EXCUSE FROM CENSURE
(CC. 2202, 2218, 2229)

SECTION 1. Want of Reason

No delinquency is censured in the case of one not in actual possession of reason when the delinquency was committed; the habitually insane are presumed to be always incapable of incurring censure even if they have intervals *of* sanity.

SECTION 2. Ignorance and Fear

1. Ignorance, invincible or inculpable, whether it is ignorance of the law itself or of its sanction, excuses from censure.

2. Ignorance that is only slightly culpable excuses from censures since a grave penalty, such as censure, presupposes full deliberation. This ignorance excuses from every censure in conscience and also in the external forum if the excuse is proved (c. 2218, §2). What is true of ignorance, is true also of inadvertence and mistake.

3. Ignorance that is studied, namely, wished as such, never excuses from a censure *lata sententia* (c. 2229, §1).

4. If the law imposing a censure contains the terms has presumed, has dared, has acted knowingly, of set purpose, rashly, deliberately, or other similar expressions, then every diminution of imputability, whether on the part of the intellect or the will, exempts from censures *lata sententia* (c. 2229, §2).

5. But if a law imposing a censure does not contain any of the aforesaid phrases or their equivalent, the following rules apply:

(o) Crass or supine ignorance, whether of the law or only of the penalty, does not exempt from any penalty *lata sententia* (c. 2229, §3,1).

(Ô) If the ignorance was not crass or supine, even if gravely culpable, it excuses from medicinal penalties (censures), but not from vindicatory penalties *lata sententia.*

(c) A state of intoxication, the omission of suitable diligence, weakness of mind, impetuosity of passion, do not excuse from penalties *lata sententia* if, notwithstanding the diminution of imputability, the act done was grievously culpable.

(^) Grave fear does not exempt from penalties *lata sententia,* if the delinquency tended to contempt of the faith, or of ecclesiastical authority, or the public harm of souls, but if the delinquency had no such results, even though it was intrinsically evil and gravely culpable, the delinquent does not incur the said penalties (P.C.C.J., Dec. 30, 1937).

CHAPTER VI

RESERVATION OF CENSURES
(cc. 2245-2247)

i. A censure is said to be reserved if its absolution is reserved to the tribunal of a Superior. When a censure is reserved, the sin which gave cause to the censure remains reserved so long as the censure remains reserved. If the fact of reservation is in doubt, and the doubt is a positive one, the reservation does not apply. The doubt may be in the mind of the confessor or of the penitent; it may regard fact or law; it may be a doubt as to whether the sin was grave, whether all conditions for incurring censure were present, whether the effect really ensued in cases when censure depends on effect, as in abortion.

2. A censure inflicted by an individual Superior *(ab homine')* is always and everywhere reserved to that Superior, his successor, or his delegate (c. 2247, §2). Apart from that, reservation in a particular territory lapses outside that territory (c. 2247, §2).

3. Some censures are reserved by law to the Pope, others to the

Ordinary, others to religious Superiors; censures reserved to the Pope are reserved either simply, specially, or most specially.

4. When a penitent knows that he incurred a censure, but did not know that it was reserved, he may probably be absolved by any confessor.

5. When a confessor absolves a penitent from a reserved censure and sin, but was ignorant of its reservation, the absolution of the censure (and of the sin) is valid, unless it was a censure inflicted *ab homine,* or one reserved most specially to the Holy See. The same is true if the confessor was inadvertent, mistaken, wanting in circumspection (c. 2247, §3). But in the two exceptions, the sin itself is absolved directly (S.O., Sept. 10, 1556; Coll. P.F., II, p. 216, n.).

CHAPTER VII

ABSOLUTION FROM CENSURES
(cc. 2248-2254)

SECTION 1. General Principles

I. Censure is a bond in the external forum; it therefore requires absolution in that forum unless the Superior rules otherwise.

2. Censure persists until legitimately absolved; if law has abolished a censure, one who had previously incurred it still needs absolution.

3. When a censured person has ceased from his contumacy, he is entitled to absolution, provided that he promises to make the reparation necessary and repair the scandal if scandal had been given.

4. Censure is not re-incurred after its absolution, unless the obligation that was imposed—if imposed—under the same censure was not fulfilled.

5. Absolution can be given from one censure without affecting other censures incurred by the same person. One who has incurred a censure which connotes a grave sin can, by perfect contrition, acquire the state of grace but not freedom from censure.

6. When absolution is sought from several censures, all of them must be confessed, otherwise only those mentioned are absolved, but if a general absolution from censures is given, those not confessed in good faith, or from forgetfulness, are absolved, except censures most specially reserved to the Holy See; those withheld in bad faith are not absolved.

7. If a particular censure, such as suspension from hearing confessions, is not a bar to the reception of the Sacraments, the person

under the censure can be absolved from sin, though the censure persists. But if the censure is a bar to the reception of the Sacraments, the sin cannot be licitly absolved before the censure is absolved.

8. The form of absolution from censure in the tribunal of Penance is included in the ordinary form of absolution; outside that tribunal, absolution from censure can be given by any form of words which sufficiently expresses the absolution, but for absolution from excommunication it is fitting to use, as a general rule, the form given in the ritual (tit. III. c. 3).

9. When absolution from censure is given in the external forum, it is valid for the internal forum, that is, the subject is freed from all the effects of censure both in conscience and externally. But if absolution was given only in the internal forum of conscience, the person so absolved may act externally as though absolved in the external forum, provided no scandal is given. Nevertheless unless the fact of absolution is proved, or at least legitimately presumed in the external forum, the person absolved only in the internal forum can be treated as not absolved. If the crime censured remains occult, after absolution *in foro interne,* the person absolved may act in public as though absolved *in foro externo.*

SECTION 2. Absolution from Censure in Danger of Death

i. All priests, even those not approved for confessions, can validly and licitly absolve any penitent in danger of death (even probable danger), and also mobilised soldiers merely because they are mobilised (S. Pœnit., March 18, 1912, May 29, 1915) from any sin and censure however reserved or notorious, even if there is present a priest approved for confessions. There are certain restrictions as follows:

(a) A priest who had been an accomplice with the dying person in a grave sin of unchastity can, indeed, absolve that person validly from the aforesaid sin, but cannot always do so licitly, namely, he cannot do so if the dying person is willing to confess to another confessor, or if the latter can be got without danger of grave defamation of character of either the accomplice priest or accomplice.

(Z>) Secondly, a person, who in danger of death, has received absolution from a priest who had not special faculty for absolving from a censure *ab homine,* or from one most specially reserved to the Holy See must, on recovery from the danger, have recourse to the proper Superior within a month, under penalty of incurring the censure again. This Superior is, in the case of a censure *ab homine,* the person who inflicted the censure; in the case of the other censures, the Superior is the Sacred Penitentiary, or some Bishop or other Superior (including privileged confessor) who can deal with the case. This recourse is

imposed under penalty of incurring the same censure, but neglect to have recourse must have been seriously culpable. Probably delay for a month after recovery is permissible. The confessor who absolved such a penitent in the first instance must use his prudent judgment as to whether or not he imposes the obligation of recourse. The absolved person must fulfil the prescriptions imposed on him. If the penitent can find a confessor who has faculties for the case for which he is obliged to have recourse, he may obtain absolution from him by confessing the sin which was visited with censure, and disregard the pr riptions which have been given by the Superior.

SECTION 3. Absolution from Censures Outside the Danger of Death

1. Absolution from censure not reserved may be given by any confessor in the sacramental tribunal only, but not if the case has come before the Courts and declaratory sentence has been given. Absolution in the extra-sacramental forum can be given only by one who has jurisdiction over the penitent in that forum.

2. Absolution from a censure *ab homine* can be given only by him who inflicted it, or his Superior, his successor, or his delegate. The absolution can be given by these even if the penitent has changed his domicile. Some authors think that the Ordinary of the new domicile can absolve the censure.

3. Absolution from a censure reserved by law can be given by him who established the censure, his Superior, successor or delegate. Any local Ordinary can absolve from censures reserved by law to Ordinaries his own subjects anywhere and visitors *{peregrini)* to his diocese.

SECTION 4. Absolution in Urgent Cases Outside Danger of Death

I. In an urgent case, when a censure *late sententia* cannot be observed externally without risk of grave scandal or defamation, or when it would be burdensome for the censured to remain in the state of grave sin until faculty to absolve him had been obtained from the competent Superior, then any confessor can absolve the penitent in the tribunal of Penance, if confession is made where the confessor has faculties for hearing confessions, no matter what the censure is, but with one exception (cf. n. 5, *infra).* Such confessor must impose the obligation on the penitent under pain of incurring the censure again, of having recourse within a month to either the Sacred Penitentiary, or a Bishop, or other Superior who has the necessary faculties of dealing with the case, and abiding by the prescriptions which will be imposed. This recourse is to be made personally or by personal letter, or by using the services of the confessor, if that is possible without grave

inconvenience, the name of the penitent not being mentioned. The absolution given by the confessor in such cases is direct from both sin and censure. The purpose of recourse is to submit the case for penance and admonition.

2. But in the aforesaid contingency, if the penitent, after sacramental absolution, has had recourse to the competent Superior, there is nothing to prevent him from approaching another confessor who happens to have faculties for dealing with the case, and after making confession of the censured sin, receiving absolution from both sin and censure. In that case, the penitent may abide by what the second confessor has enjoined, so that the injunctions given by the Superior may be disregarded.

3. In event of recourse to the Superior being impossible, either physically or morally, a confessor with ordinary diocesan faculties can, with one exception (cf. 4 *infra),* give absolution without imposing the obligation of recourse, but he must enjoin what is usually enjoined in such cases, namely, reparation of injury done to a third party, if any, and of any scandal that may have arisen, removal of the occasion of the sin confessed, a firm purpose of amendment, and acceptance of the penance imposed. The case mentioned below is not here included, because there is no question of absolution outside the danger of death.

Recourse is morally impossible if neither penitent nor c onfessor is able to write, or the penitent cannot go to another confessor who has the requisite faculties without grave inconvenience, or if, though the confessor could write, the penitent could not appear before him for the execution of the rescript. The penitent must fulfil the prescriptions of the confessor within the fixed time under pain of incurring the same censure.

4. The one exception mentioned above (n. 3) is the case of a priest who had incurred excommunication for having attempted, or pretended, to absolve his accomplice, or absolving the accomplice illicitly. The said accomplice priest is obliged to have recourse to the Sacred Penitentiary, or any other tribunal that can deal with his case. Impossibility is not admitted by the law in such cases, but of course the law is applicable to normal cases only.

5. The one exception mentioned (n. 1), is the censure incurred by a priest who has attempted marriage and cannot separate from his accomplice. Apart from danger of death, this censure cannot be absolved by anyone except the Sacred Penitentiary (cf. infra, c. ix., sect, i n. 6).

6. In the same urgent cases, a censure *ab homine,* inflicted by judicial sentence, can be absolved by an ordinary confessor, who, however, must impose the obligation of recourse.

7. If the delinquency censured had been brought before the Court, the ordinary confessor can absolve, but only in the sacramental forum, provided that the delinquency is not known in the place where the confession is made, and if the penitent does not wish to remain in the state of mortal sin.

8. If the censured person is publicly declared censured, v.g. by judicial sentence, absolution in the external forum must precede sacramental absolution.

CHARTER VIII

EXCOMMUNICATION
(cc. 2257-2267)

SECTION 1. Definition

i. Excommunication is a censure which excludes a person or persons from communion with the faithful and the enjoyment of the rights of a member of the Church. It is not a vindicatory penalty, but is wholly medicinal, designed primarily for the benefit of the person excommunicated. It is a bond of the internal as well as of the external forum, that is, it binds in conscience.

2. There are two kinds *of* excommunicated persons, namely, those who are to be avoided, and those who are tolerated.

(a) An excommunicate who has to be avoided is one who has been excommunicated by name by the Holy See, whose excommunication has been publicly announced and who is expressly named as one to be avoided. But a person who lays violent hands publicly or privately on the Pope is *ipsofacto* an excommunicate to be avoided (c. 2343, §1,

(Æ) All other excommunicates are termed tolerated.

SECTION 2. The Effects of Excommunication

I. The excommunicate is forbidden to receive the Sacraments, and if condemned by name, even the sacramentals, to celebrate Mass, confer or administer the Sacraments or sacramentals, but the faithful may ask him for them for a good reason if there is no legitimate available minister. If his excommunication is occult, he is allowed to express his readiness to administer the Sacraments. If he is an excommunicate to be avoided, or has been excommunicated by sentence,

the faithful only when in danger of death may ask him for absolution (cc. 882, 2252), and if no legitimate minister is available, for the other Sacraments and the sacramentals.

2. An excommunicate has no right to assist at divine offices but may listen to sermons. One who is tolerated and assists at divine offices passively, need not be expelled from the church, but if he is one who has to be avoided, he must, if possible, be expelled from the church during divine service, otherwise the service must be discontinued, apart from scandal and harm to the faithful. Social intercourse with him is forbidden unless there is a just reason for it; wife, parents, children, servants, subjects are exempted.

3. An excommunicate may not exercise certain legitimate ecclesiastical acts, as sponsorship in Baptism or Confirmation, nor may he exercise ecclesiastical offices and functions that require Orders or jurisdiction, or exercise the right of election, presentation, or nomination.

4. He is forbidden to enjoy the personal privileges which he had from the Church, nor may he acquire any ecclesiastical dignities, offices, benefits, pensions, or Sacred Orders.

5. He may not exercise licitly any acts of jurisdiction in either the internal or the external forum, unless the Church makes some concessions to him as stated above (n. 1).

6. He has no share in indulgences, suffrages, public prayers, of the Church. But the faithful are allowed to pray for excommunicates privately, Mass may be said for them privately or for their intentions even for a stipend apart from scandal, but in the case of excommunicates to be avoided, Mass may be said only for their conversion. After the death of an excommunicate, Mass may be said privately for him if it is not publicly certain that he died impenitent, but scandal must always be precluded.

7. If the excommunicate has been publicly denounced as such by declaratory or condemnatory sentence, in addition to the aforesaid penalties, he must be excluded from active assistance in the divine offices, denied ecclesiastical burial unless he showed signs of repentance before death, public Mass may not be offered for him, the church or cemetery in which he has been buried, if such was the case, suffers violation, and those who dared to order or insist upon the ecclesiastical burial of his corpse are excommunicated.

CHAPTER IX

RESERVED EXCOmiUNICATIONS

SECTION 1. Excommunications Reserved Most Specially to the Holy See

1. Absolution of an Accomplice

Illegitimate, attempted, or simulated sacramental absolution of an accomplice is a grave mutual external sin against the sixth Commandment (c. 2367). The excommunication is not incurred if the accomplice priest absolved his accomplice in danger of death when no other priest was available, or not available without danger of defamation of either accomplice, or if the dying accomplice would not confess to any other priest, nor is he excommunicated when he absolves his accomplice in doubt, ignorance, inadvertence, forgetfulness, because the censure requires full knowledge and grave sin. But crass, supine, or studied ignorance would not excuse the accomplice priest from incurring the censure.

The same excommunication is incurred if the accomplice priest absolves, or attempts to absolve, his accomplice when the latter does not confess the mutual sin (not as yet absolved), induced either directly or indirectly not to confess it by the priest. He is also excommunicated if he persuaded his accomplice that the sin which they were about to commit, though gravely wrong, would not be sinful, or certainly not gravely sinful, and absolved the accomplice after the sin who, owing to what the priest had said, did not confess the sin, but confessed some other sins (S.O., Nov. 16, 1934).

2· Direct Violation of the Seal of Confession (c. 2369, §1)

This excoiHIH unication is incurred by a true confessor who presumes to violate the seal directly.

(ά) In cases of inadvertence, indeliberation, crass or supine ignorance, and even slight fear, the excommunication is not incurred.

3. Attack on the Person of the Pope (c. 2343, §1, 1)

Not only is physical attack on the person of the Pope visited with excommunication, but imprisonment, detention and external insult, even by actions not of a grave nature, are similarly punished.

•i. Profanation of the Sacred Species of the Holy Eucharist (c, 2330)

One who throws away the consecrated species, or for evil purpose carries them off, or retains them, incurs this excommunication. The term throws away *(abjecerit)* of the canon includes all direct physical profanation of the sacred species.

5. Certain violation of the laws of papal elections arc visited with the excommunication (c. 2330)

6. Sacrilegious Concubinage

A priest who has entered into an invalid marriage and is unable to discontinue life under the same roof with the other party (though they no longer sin), is punished with this excommunication, and his absolution apart from his danger of death—is absolutely reserved to the Sacred Penitentiary (S. Poenit., April 18, 1936; May 4, 1937). No privilege or faculty of law entitles any confessor to absolve such a priest apart from the danger of death.

SECTION 2. Excommunications Reserved Specially to the Holy See

L Apostasy, Heresy, Schism

Apostates from the Christian faith, heretics, schismatics, incur this excommunication (c. 2314, §1, 1). If the delinquency has been brought before the external forum of the Ordinary in any way, even by voluntary avowal, the said Ordinary—not the Vicar general without special mandate—can absolve the excommunication in the external forum. Thereafter any confessor can absolve the sin in the forum of conscience (c. 2314, §2). The absolved person must be given a salutary penance proportionate to the gravity of the fault, must repair the scandal given as best he can, must sever all relations with the sect to which he adhered. Converts from heresy, if conditionally baptized on conversion, must be absolved in the external forum, faculty for which must be got from the local Ordinary.

2. Suspicion of Heresy (c. 2315)

A person suspected of heresy who, on being admonished, does not dispel the suspicion, is forbidden legitimate ecclesiastical acts. If after six months he has not amended, he is regarded as a heretic, and is subject to penalties as such.

The following are juridically suspected of heresy:

1. Those who deliberately and knowingly help to propagate heresy, and those who take an active part or give active assistance in the religious rites of non-Catholics (cc. 2316, 1258).

2. Those who contract marriage with the explicit or implicit

understanding that any of their children shall be educated outside the Catholic Church, or who presume to offer their children to non-Catholic ministers for Baptism, or who knowingly have their children or wards educated in a non-Catholic religion (c. 2319).

3. Those who desecrate the sacred species by throwing them away, or for exil purpose take them away, or retain them (c. 2320).

4. Those who appeal from the decrees of the reigning Roman Pontiff to a General Council (c. 2332).

5. Those who obstinately remain under excommunication for a year (c. 2340, §1).

6. Those guilty of simony in giving or receiving Orders, or administering the Sacraments (c. 2371).

X Publication, Defence, Reading, or Retention of Certain Books (c. 2318, §1)

This excommunication is incurred by those who publish the books of apostates, heretics, or schismatics, which defend apostasy, heresy, or schism, and by those who defend, or knowingly, without due permission, read or retain the said books, or any others forbidden by name by Apostolic letters.

4. Simulated Celebration of Mass, or Hearing Confessions without Priestly Orders (c. 2322, §1)

One not a priest who pretends to celebrate Mass or hear confessions, so that others are thereby deceived, incurs this excommunication. The pretence must be real and effectual. To pronounce the words of consecration in the Mass, or the words of absolution in confession, is not necessary.

& Appeal to a General Council (c. 2332)

All physical persons of whatever rank, dignity, or condition, even the members of the royal family, or Bishops, or Cardinals, who appeal from the law's, decrees, or mandates of the reigning Sovereign Pontiff to a General Council, are suspected of heresy and incur this excommunication. The appeal is not to a future Pope, or the Pope "better informed." The twofold penalty is incurred.

6. Impeding Apostolic Letters or Acts (c. 2333)

Those incur this excommunication who have recourse to the secular authority with a view to impeding letters, or other written communications of the Apostolic See, or papal Legates, or forbid, whether directly or indirectly, the promulgation or execution of them, or on account of the letters or communications, do harm to, or intimidate, those for whom the letters or acts were intended or others. The harm or intimid-

ation must be grave. It is not certain that the attempt to do what is here forbidden leads to excommunication.

7. Legislation against the Church (c. 2334)

Those incur this excommunication who enact laws, mandates, or decrees, against the liberty or the rights of the Church, and those who impede, whether directly or indirectly, the exercise of ecclesiastical jurisdiction of either the internal or the external forum by having recourse for that purpose to the secular power.

8. Citation of Cardinals, etc. to a Lay Trihunal (c. 2341)

Those incur this censure who dare to cite before a lay tribunal Cardinals, Legates of the Apostolic See, or higher officials of the Roman Curia, in connexion with matters pertaining to their office, or cite their own Ordinary. The offence is to cite any of the aforesaid as defendant, whether sentence is passed or not.

9. Violation of the Personal Immunity of Cardinals, etc. (c. 2343, §§2, 3)

Those incur this excommunication who, with evil intent, dare to lay violent hands with consequent injury on the person of a Cardinal, papal Legate, Patriarch, Archbishop, Bishop (even titular). The privilege safeguarded by the penalty is termed the privilege of the canon (canon 15, Lateran Council II).

10. Usurpation or Detention of the Property or Rights of the Roman Church (c. 2345)

Those incur this excommunication who usurp, or keep personally or by proxy, the property or the rights which belong to the Church in Rome. The property referred to includes all temporal goods of a grave amount, and the rights are the civil rights.

11. Fabrication of Documents (c. 2360, §1)

Those guilty of fabricating or falsifying letters, decrees, or rescripts of the Apostolic See, and those knowingly making use of them, incur this excommunication. The letters meant are the official not the private letters of the Pope. The term Apostolic See includes the Sacred Congregations, Tribunals and Offices of the Roman Curia.

12. Fake Accusation of a Confessor (c. 2363)

Those incur this excommunication who, personally or through another bring a false accusation before the ecclesiastical judge against a confessor on the charge of solicitation, as explained in the treatise on Penance. Absolution from this censure may not be given, unless the false charge has been formally withdrawn and any injury that has ensued from it has been repaired. A serious and protracted penance,

such as the recital of the Rosary' daily for a month, should be imposed. Not only is the censure reserved, but the sin itself' is reserved to the Holy See (c. 894), and though ignorance excuses from the censure, it does not excuse from the reservation of the sin (but cf. Treat. XVI, c. VIII, sect. 4, n. 2).

13. Forbidden Trading (S.C.C., March 28, 1950)

Clerics and Religious and members of the Secular Institutes of Christian Perfection who offend against the Canons (cc. 142, 592) which forbid lucrative trading incur this excommunication.

SECTION 3. Excommunications Simply Reserved to the Holy See

1. Trafficking in Indulgences (c. 2327)

Those who for profit grant or publish indulgences, or have them published, or apply them, or sell indulgenced objects, incur this excommunication. The price must be accepted before the excommunication can be incurred. The amount of profit is immaterial. The indulgences in question must be real not fictitious. Simony usually accompanies such trafficking.

2. Aggregation to Impions Sects (c. 2335)

Those who knowingly and deliberately join the Masonic or similar associations which plot against the Church or State incur this excommunication. One who is a member of any such association must withdraw from it, unless he cannot do so immediately without very grave inconvenience, and even then he must do so, if there would else be grave spiritual harm to himself or benefit to the said association (S.O., March 7, 1883; Pope Pius XI, Bull, Dec. 25, 1925). When the Sacred Penitentiary gives faculty to absolve one who had joined a condemned society, it usually adds the condition that the penitent shall abjure the sect, revoke any pact made with the devil, hand over to the confessor all superstitious appurtenances, and give up or bum all books, manuscripts and insignia which he had relating to the said society.

3. Absolving from Censure Without Faculty (c. 2338, §1)

Those incur this excommunication who presume to absolve, without due faculty, from an excommunication *lata sententia, reserved* either specially or most specially to the Apostolic See. It is the attempt to absolve not the pretence of doing so that is the offence. Ignorance, if not studied, and even light fear, excuse from the penalty.

4. Showing Favour to Certain Excommunicate* (c. 2338, §2)

This excommunication is incurred by those who give assistance or countenance to an excommunicate who is to be shunned *(vitandus)* in the delinquency for which he is excommunicated. The cooperation must have been given in the delinquency already perpetrated. Also clerics who freely and knowingly communicate with such a one in divine functions, or allow him to do so in divine offices, incur the excommunication.

5. Citation to Lay Tribunal of Bishop, Prelate, etc. (cc. 2341, 488)

Those incur this excommunication who, without legitimate permission, dare to cite as defendant before a lay tribunal a Bishop other than their own Ordinary, even a titular Bishop, or an Abbot or Prelate of independent jurisdiction, or one of the major Superiors of a pontifical religious Institute. In order to incur this penalty, it is not necessary that the judge should actually cite the defendant (P.C.C.J., April 26, 1948).

6. Violation of Enclosure (c. 2342)

1. This excommunication is incurred by persons of whatever class, condition, or of either sex who, in violation of the enclosure of nuns, enter their monastery without legitimate permission, and those who introduce or admit them.

2. Females (over the canonical age of puberty, i.e. 14 years of age), who violate the enclosure of male Regulars, and the Superiors and others, whoever they may be, who introduce or admit females of whatever age (even under 7 years of age) into such enclosure incur this excommunication. Exception is made in favour of the wives of those who hold supreme power in the State and their retinue (c. 600).

3. Nuns of solemn vows who illegitimately quit their enclosure are similarly excommunicated. They do so illegitimately, if, apart from cases of imminent danger of death or some other most serious evil, they quit the enclosure even for a short time on any pretext without a special induit of the Holy See.

4. Those violate enclosure who, without legitimate permission, enter it completely, not partially, whatever their motive.

7. Usurpation and Conversion of Ecclesiastical Property (c. 2346)

This excommunication is incurred by any person, cleric, Religious, or lay, who personally, or through others, dares to convert to his own use and appropriate ecclesiastical property of any kind, movable or immovable, corporeal or incorporeal, and by any person who dares to prevent those from receiving the fruits or income of such property who have the right to do so. The penalty persists until full restitution has been made, all obstacles removed and absolution

granted by the Apostolic See. Crass or supine ignorance and even slight fear excuses from the censure, and also legal compulsion. The Holy See may allow a compensation in place of full restitution. The penalties are not incurred by ordinary thieves.

8. Duelling (c. 2351, §1)

This excommunication is incurred by persons of whatever rank who engage in a duel or merely issue a challenge to one, though it was not accepted, and those who accept a challenge or offer any assistance or favour to a duel, or witness one of set purpose so as to encourage it in any way, or permit or fail to prevent it, so far as they could and to the extent to which they were obliged to do so. Since the law mentions persons of rank, the excommunication is not incurred by private persons who have no rank, civil or military, for not preventing a duel. "When a Court of Honour decides that a duel should take place, the duellists incur the canonical penalties unless it is certain that they had not the intention of duelling (P.C.C.J., June 26, 1947).

9. Attempted Marriage by or with Qeric in Sacred Orders, or Religious of Solemn Vow of Chastity (c. 2386, §1)

This excommunication is incurred by a cleric in major Orders, or a Regular, male or female, who has taken the solemn vow of chastity, who presumes to contract marriage, even civilly, and by those who presume to contract marriage with any of the aforesaid persons. No simple vow, even if it is a diriment impediment to marriage, is here included. If a mistake was made, or if there was a simulated consent or ignorance even crass or supine, or slight fear, the censure is not incurred.

10. Simony (c. 2392, §1)

This excommunication is incurred by those who commit the crimes of simony in any ecclesiastical office, benefice, or dignity. The office referred to is an ecclesiastical one canonically conferred, connoting some share in the power of Orders or jurisdiction.

11. Tampering with Certain Documents (c. 2405)

The Vicar Capitular, all the members of the Chapter, and others who, personally or through others, withdraw, destroy, conceal, or substantially alter any document belonging to the episcopal Curia incur this excommunication. The censure is incurred only when the See is vacant. The document may be private or public and must be one of some importance, destined for use in proof of some truth or matter of justice. The offence must have been co itted with serious malice. The censure does not lapse by mere restitution of the document or avowal. It requires absolution.

SECTION 4. Excommunications Reserved by Law to the Ordinary

1. Abetting Heresy (c. 2319)

(a) Those incur this excommunication who contract marriage in the presence of a non-Catholic minister acting as such, contrary to the prescription of the canon 1063, §1. The canon referred to states that though a dispensation from the impediment of difference of religion had been granted to a Catholic about to marry, the parties to the marriage may not, whether before or after marriage in the church (i.e. in due canonical form), also present themselves personally, or by proxy, to a non-Catholic minister acting as such, to give or renew their matrimonial consent. If the marriage was a civil one only the censure is not incurred.

(ô) Agreement to educate offspring outside the Church. This excommunication is incurred by those who contract marriage with the agreement, express or implied, that all or some of their offspring shall be educated outside the Catholic Church. The censure is incurred only in a true valid marriage, even convalidated, and at the moment of marriage or before it; it would not be incurred if the agreement was made after marriage. To be educated outside the Catholic Church is to be educated in a false religious sect.

(c) Non-Catholic Baptism. Those incur this excommunication who knowingly presume to offer their children to non-Catholic ministers to be baptized by them. Ignorance, even crass or supine, and fear, excuse from this censure. The children may be legitimate or illegitimate.

(*Z) Non-Catholic education of offspring or wards. Those incur this excommunication who, being parents, validly or invalidly married, or those holding the place of parents, with full knowledge hand over their children or wards to be educated or brought up in a non-Catholic religion. Education given in purely secular subjects is not included.

2. Making, Selling, Distributing, Exposing to Public Veneration False Relics (c. 2326)

Those incur this excommunication who manufacture, or knowingly sell, distribute, or expose for the public veneration of the faithful, false relics. The relics meant are those alleged to be of the Saints or the Beatified, and include relics of garments, or burial cerements, or false instruments of the sufferings or penances of the Saints or Beatified. The relics must be known to be false. To distribute false relics has a wide sense, but does not mean donation. To expose false relics is to expose them officially.

3. Violation of Personal Immunity of Clerics or Religious (c. 2343, §4)

Those incur this excommunication who lay violent hands on the person of a cleric other than the Pope, Cardinal Legate of the Apostolic

See, Patriarch, Archbishop, Bishop (whose cases have been considered), or on Religious of either sex. The violence must be deliberate and unjust. To strike a cleric out of hatred of the clerical state is probably not included. Clerics are those dedicated to the sacred ministry' by at least the first tonsure. Religious are those who have taken vows in a religious Institute. Novices are included, as also all who, though not under vow, live in subjection to a religious Superior according to rule.

4. Abortion (c. 2350, §1)

Those incur this excommunication who effectually procure abortion, and if they are clerics they are also to be deposed. All who co-operate in procuring abortion, the mother included, incur the censure, such as those who order it to be done, or advise it effectually, surgeons, nurses and chemists, if in this case they sell abortifacients for a particular woman, knowing and intending the effect of the drug, and those who employ any other effectual method.

By abortion is meant the expulsion from the mother's womb of a living inviable fetus. No consideration is now paid to any theory as to the precise moment *of* the animation of the human organism. Abortion is to be interpreted strictly; it is not craniotomy, nor embryotomy, nor feticide after birth. It is probable that one who intentionally sets in motion a cause sufficient to produce abortion, but before it takes place regrets his act, does not incur the censure. If, before the abortion took place, he confesses his sin, he can be absolved from it, for the censure has not at that moment been incurred. If the abortion took place after the confession, he probably does not incur the censure, but in the external forum he may be regarded as censured until his previous absolution has been proved to the satisfaction of the Superior.

5. Apostasy from a Religious Institute (c. 2385)

A Religious who apostatizes from his Institute incurs an excommunication reserved to his major Superior if he is a member of an exempt clerical Institute, or to the local Ordinary where he resides, if he belongs to a lay religious Institute, or to a religious Institute not exempt. Female Religious are also subject to this censure. An apostate from a religious Institute is one who, being professed of perpetual religious vows, whether solemn or simple, illegitimately abandons his Institute with the intention of not returning, and also one who, being legitimately outside the religious house, remains outside after the permission to do so has terminated, with a view of withdrawing from obedience. The malicious intention is presumed, if the Religious does not return within a month, or has not signified to the Superior

his intention of returning, though, of course, the malicious intention may be manifested before a month has expired.

A fugitive from a religious Institute is not an apostate, for he abandons his Institute with the intention of returning. He does not incur excommunication, but is suspended from the exercise of his Orders if he was in Sacred Orders and may be punished in other ways according to the gravity of his fault (c. 2386). The case is reserved to his major Superior (c. 2388, §2).

6. Civil Marriage by or with a Religions of Simple Vows (c. 2388, §2)

'I hose incur this excommunication who, being professed of simple perpetual vows in either an Order or a Congregation, presume to contract marriage, even a civil one, and those who presume to contract marriage with such a person. Both men and women Religious incur this excommunication. It is reserved to the major Superior in the case of an exempt clerical Institute, to the local Ordinary, if the person belongs either to a lay or a non-exempt Institute. The excommunication is incurred only if there was complete imputability for the act.

SECTION 5. Excommunication Not Reserved

1. Authors or Publishers of Sacred Scripture Without Permission, or Those Who Have Notée or Commentaries Thereon Printed Without Permission, Incur this Excommunication (c. 2318, §2)

The excommunication is incurred by those authors and publishers who, without due permission, procure the printing of books of Sacred Scripture, or notes or commentaries on them. As it is the public harm that is considered, a few copies published would not constitute the offence. A commentary does not mean a few pages only, but a book or pamphlet or periodical bound into a volume.

2. Illegitimate Christian Burial (c. 2339)

Those incur this excommunication who dare to command or compel the ecclesiastical authorities to give ecclesiastical burial to infidels, apostates, heretics, schismatics, or other excommunicates, or interdicted persons mentioned in the canons (c. 1240, §1), that is, suicide^ duellists killed in duel, or dying from a wound received in a duel, one who gives orders for his corpse to be cremated, public and manifest sinners. This excommunication is probably incurred only by public authorities. The term ecclesiastical burial must be interpreted strictly, so that it means at least burying the body in a place assigned to the burial of the faithful; it may also include conveying the body to the church and holding the exequies there. If any sign of repentance was given before death by those forbidden ecclesiastical burial, the ex-

communication is not incurred, nor is it incurred by the burial of catechumens, or unbaptized infants of Christian parents, nor if actual burial did not take place, nor in default of complete imputability.

3. Alienation of Church Property (c. 2347, §3)

This excommunication is incurred by those who deliberately disregard Apostolic permission needed for the alienation of church property, whether by giving, receiving, or merely consenting to the transaction. Apostolic permission is needed in the case of things that are precious (c. 1532), or that exceed in value thirty thousand francs (c. 534). Property is precious if it has a notable exchange value, artistically, historically, or because of its material. Since money has depreciated since 1918, a notable money value is a much greater amount now than formerly. The value must be reckoned in terms of gold exchange.

4. Compelling Another to Enter the Clerical or the Religious State (c. 2352)

Those incur this excommunication who compel a man to enter the clerical state, or anyone to enter the religious state, or to take religious vow's after entrance. No one, whatever his office or dignity (Cardinals excepted), is exempted from this censure. Compulsion exists if grave fear, absolute or relative, was inspired in the subject.

5. Failure to Denounce Solicitation (c. 2368, §2)

This excommunication is incurred by one who has deliberately neglected, or refused, to denounce within a month from knowledge of the obligation to do so his or her confessor who has been guilty of technical solicitation as explained in the treatise on Penance. This excommunication cannot be absolved unless the person solicited has fulfilled or seriously promised to fulfil the obligation.

CHAPTER X

INTERDICT
(cc. 2268-2277)

SECTION 1. Nature and Kinds of Interdict

An Interdict is an ecclesiastical censure by which the faithful, whilst remaining in communion with the Church, are forbidden the use of the liturgical services, some of the Sacraments and Christian burial.

Kind of Intexdict

1. Interdict is personal, local, or mixed, in accordance as it affects individuals only, or places, or both.

2. It is general in regard to place if it affects the whole of a district. It is general in regard to persons if it affects a community; it is particular, if it affects only a particular place, person, or persons.

3. It is complete if it extends to the use of all those things enumerated in the definition; incomplete, if it extends to some only.

4. It may be inflicted by law (a *jure),* or by a Superior (ἀὸ *homine).*

5. It may be inflicted by way of censure or punishment.

SECTION 2. The Effects of Particular Personal Interdict

1. The person interdicted may not celebrate the divine offices, nor assist at any of them, but may hear instructions and sermons. If he assists passively at divine offices, he need not be expelled, but if he does so actively, he must be expelled if he is notoriously interdicted, or has had sentence passed on him as an excommunicate to be avoided.

2. He may not receive the Sacraments nor, after sentence, the sacramentals.

3. He may not lawfully celebrate or administer the Sacraments or sacramentals, unless for some reasonable cause the faithful ask him for them, especially if there is no other sacred minister available. He may then lawfully administer them. If he is personally interdicted and sentenced, the faithful may ask from him only for absolution in danger of death, and if other sacred ministers are not available, the other Sacraments and the sacramentals.

4. After sentence, he has lost the rights, if he had them, of election, nomination and presentation, of acquiring dignities, offices, benefices, ecclesiastical pensions, and any ecclesiastical office, or any pontifical favour, unless in this case the rescript mentions the interdict. He may not, if sentenced, be given ecclesiastical burial unless he showed signs of repentance before death.

SECTION 3. The Effects of General Personal Interdict

i. Such interdict affects the people of a place. If individuals are interdicted, they suffer as stated above; if a corporate body is interdicted, it cannot exercise any spiritual right which it had. If both individuals and body are interdicted, each suffers corresponding disabilities. But if an individual has not himself given grave cause for the interdict, he is not forbidden to receive the Sacraments. If an individual ceases to be a member of an interdicted corporate body, he ceases to be interdicted unless personally interdicted. Members of a

corporate body interdicted, if absent or guiltless, are affected indirectly, but not strangers or visitors. An interdict *lata sententia* does not affect Bishops, nor those under fourteen years of age.

2. If the faithful are interdicted, clerics are not included. If the clergy of a place are interdicted, neither lay people nor Religious are included, nor clerics who have no office or benefice, nor Bishops.

SECTION 4. The Effects of Local Interdict, Whether General or Particular

1. This interdict affects all who are in the interdicted place including strangers, visitors and exempt Religious, unless these have particular privileges. But those who gave no cause for the interdict may receive the Sacraments.

2. No sacred function may be celebrated at an interdicted altar, or in an interdicted chapel or cemetery.

3. If the parish church is interdicted and no other church substituted, it is permitted to celebrate one Mass, to reserve the Blessed Sacrament, to administer Baptism, Holy Eucharist and Penance, to assist at marriages without the nuptial blessing, to hold simple exequies, to bless baptismal water and the holy oils (in the cathedral church), and to preach. In all cases, there may be no chanting, nor display, nor ringing of bells, playing of organ or any other musical instruments. Holy Viaticum may be taken only privately to the sick.

4. When a city is interdicted, its suburbs and cathedral church are included.

5. When a church is interdicted, its adjoining chapels in the same building are interdicted, but not its cemetery. If all the churches of a city are interdicted, probably the cathedral is not.

6. In a general local interdict, when the decree contains nothing to modify what follows, the clergy not personally interdicted may celebrate Mass privately in subdued tones, without the ringing of bells and behind closed doors, and all the divine offices and sacred rites. In the cathedral church and parish churches and in a church which is the only one in the city and in those alone, all that can be done in a parish church as stated above (n. 3) can be done in them. The dying may have the Sacraments and sacramentals. A local interdict is suspended on Christmas Day, Easter Sunday, Whit Sunday, Corpus Chnsti, the Assumption of Our Lady, on which days all customary ceremonies may be employed, but Orders, major and minor, including tonsure, may not be given, nor Nuptial Mass celebrated.

SECTION 5. Interdict that Forbids Entrance Into a Church

This interdict debars the subject interdicted from entering a church to celebrate the divine offices, or assist even passively at them, or to have ecclesiastical burial. It is not forbidden to go into the church for private devotions, or to hear instructions, or probably, to receive the Sacraments privately. The prohibition applies to churches only, not to oratories, public, semi-public, or private.

CHAPTER XI

SUSPENSION
(cc. 2278-2285)

SECTION 1. Definition

1. Suspension is a censure whereby a cleric is forbidden the exercise of the powers or rights belonging to him by reason of his office or benefice. The power of Sacred Orders cannot, of course, be taken away, but the use of them may be made unlawful. Jurisdiction can be taken away altogether.

2. Suspension from benefice means deprivation of the income of the benefice and loss of its administration.

3. Suspension from office forbids acts of Orders or jurisdiction and administration of goods, except those of personal benefice.

4. Suspension from jurisdiction means deprivation of all acts of jurisdiction.

5. Suspension from sacred functions *(a divinis)* forbids all acts of the power of Orders whether due to ordination or privilege.

6. Suspension from Orders *(ab ordinibus)* forbids all acts of the powers derived from ordination.

7. Suspension from Sacred Orders forbids all acts of the power of major Orders.

8. Suspension from a specified Order forbids acts of the Order, the conferring of that Order, reception of a higher Order, and the exercise of a higher which may have been received.

9. Suspension from conferring a specified Order forbids the giving of that Order.

10. Suspension from a definite act of ministry, as hearing confessions forbids the exercise of that ministry.

11. Suspension from episcopal Order, i.e. from the exercise of the episcopal power of Orders, forbids all acts of episcopal powers.

12. Suspension from pontificals (a *pontificalibus)* forbids the performance of those functions for which pontificals (crozier and mitre) are liturgically required.

SECTION 2. Suspension Ex Informata Conscientia

1. This suspension is inflicted without previous warning by an Ordinary on a subject cleric, if the reasons for it are disclosed (c. 2188, §2). It is an extraordinary' procedure and not permitted if, without grave inconvenience, the ordinary legal procedure is possible. A simple decree suffices. The decree is to be given in documentary form, precisely dated, indicating the kind of suspension inflicted, its duration and, if partial, the acts which are forbidden.

2. An occult delinquency may be visited with this suspension, but not a notorious one (cc. 2191-2192).

3. A public delinquency may be visited with this suspension if reliable witnesses report it to the Ordinary, but cannot be induced to do so in open Court, and there are no other legal proofs available, or if the offending cleric prevents by threats or otherwise a judicial process being begun or concluded, or if civil law or danger of grave scandal preclude the opening of the case.

4. The suspended cleric may appeal to the Holy See; if he does so, the Ordinary must send to the Holy See the dossier containing the alleged proofs of the delinquency.

SECTION 3. Dispensation from Suspension

Suspension, if a censure, can be dispensed or absolved as censure. If it is a vindicatory' penalty, it can be absolved in occult urgent cases, when by observing the suspension the culprit would defame himself or give scandal, by any confessor in the sacramental forum, with the obligation imposed of having recourse within a month by letter and through the confessor, if possible without grave inconvenience and without revealing the name of the party, to the Sacred Penitentiary or a Bishop who can deal with the case, and of abiding by the prescription. If in an extreme case recourse is not possible, the confessor can then grant dispensation as in the case of censures (cc. 2290, 2254, §3).

SECTION 4. Reserved Suspensions

I. Suspension reserved to the Holy See.

(a) A Bishop who, without Apostolic mandate, consecrates a Bishop, and the consecrated Bishop himself, are *ipso facto* suspended until

dispensation is granted by the Apostolic See, and also the assisting Bishops or priests (c. 2370).

(ά) Clerics knowingly promoted to Orders or administering or receiving other Sacraments simoniacally (c. 2371).

(c) Those presuming to receive Sacred Orders from an excommunicate, suspended, or interdicted Bishop after sentence, or from a notorious apostate, heretic, or schismatic, are suspended from the divine ministry. But one who has acted in good faith may not exercise the Orders received until dispensed (c. 2372).

(tZ) A Religious professed of perpetual vows dismissed from his Institute for offences of less gravity than public apostasy, desertion with one of the other sex, attempted marriage, even a civil one, and other delinquencies that are punished with infamy of law, deposition or degradation, remains suspended until absolved by the Holy See (c. 671, §1).

(e) Suspension from conferring Orders for the space of a year is the penalty for a Bishop who is guilty of certain irregularities in ordaining (c-2373)·

(f) A clerical Religious whose profession is declared null owing to his deceit, if in major Orders, is suspended during the good pleasure of the Apostolic See; if in minor Orders, he is deposed from the clerical state (c. 2387).

(g) Those who illegitimately admit to benefices, office, or dignity persons who have not exhibited to them the letters of the ecclesiastical authority which confirm or institute the said persons in office, etc., are suspended from exercising the right of election, nomination, and presentation (c. 2394, §3).

2. Suspensions reserved to the Ordinary.

(a) Clerics who, without the permission of the local Ordinary, dare to cite before a lay tribunal one of inferior dignity in the Church who enjoys the privilege of the forum (c. 2341).

(£›) A Religious who is a fugitive from his Institute, after taking Sacred Orders, incurs suspension reserved to his major Superior (c. 2386).

SECTION 5. Suspensions Not Reserved

(a) A priest who, without the necessary jurisdiction, presumes to hear sacramental confessions is suspended from the ministry (c. 2366).

(ȯ) A priest who, without the necessary jurisdiction, presumes to absolve from reserved sins is suspended from hearing confessions (c. 2366).

(c) Those who, without dimissorial letters, or with unauthentic ones, or before the canonical age, or without observing the intervals

between successive ordinations, have maliciously received Orders, are suspended from the exercise of the said Orders (c. 2374).

(d) A cleric who dares to resign his office, beneiice, or ecclesiastical dignity, to lay people is suspended from the divine ministry (c. 2400).

(e) An Abbot or Prelate of independent jurisdiction who, by Apostolic prescription, or the rules of his Institute, has to receive the abbatial blessing, but does not do so, apart from legitimate reason, is suspended from jurisdiction (c. 2402).

(/) A Vicar Capitular illegitimately giving dimissorial letters for ordination is suspended from the divine ministry (c. 2409).

(g) Religious Superiors who presume to send their subjects for ordination to a Bishop other than him to whom they ought to send them, are suspended from saying Mass for the space of a month

TREATISE XVIII
EXTREME UNCTION

CHAPTER I
THE SACRAMENT AND ITS EFFECTS
(c. 937)

Extreme unction is a Sacrament of the New Law instituted by Christ, administered by a priest to one in danger of death from either sickness or old age, by unction with appropriate matter and form.

The effects of the Sacrament are remission of sin and of temporal punishment due to forgiven sins, extinction of the relics of sin, comfort ancLstrengthening pf the soul of the sick, so that the troubles and distresses of sickness are more easily endured, the temptations of the devil more easily resisted, and recovery of bodily health if that is expedient to salvation.

CHAPTER II
MATTER AND FORM
(cc. 937, 945, 946)

SECTION 1. The Matter

I. The remote matter is olive oil blessed by a Bishop, or by a priest who has this power granted to him by the Apostolic See, for administering this Sacrament. That there may be no doubt about the validity of the Sacrament, the oil used should have been blessed for administering this Sacrament, but in urgent cases other holy oils, namely, the oil of catechumens and chrism, may lawfully be used when oil of the sick cannot be had, but then the Sacrament must be given conditionally, and afterwards repeated conditionally with the oil of the sick.

2. The old oil may not be used unless the newly-blessed oil, blessed on the preceding Maundy Thursday, cannot be got, or unless permission is granted, as was the case in 1944, to use up the old oil before using the new.

3. All priests, both secular and regular, must use the holy oil blessed by their respective local Ordinaries on the immediately preceding Maundy Thursday, or by the neighbouring Bishop if the former could not bless the oils, or if the See was vacant at the time.

4. The holy oils are to be obtained by a priest from his local Ordinary and must be kept in a safe and fitting place under lock and key. They should not be kept in the presbytery' unless that is unavoidable, or there is some good reason for doing so approved by the Ordinary. The place of reservation of the oils should be fittingly decorated, and the vessels containing them should be silver or white metal.

5. The proximate matter of the Sacrament is the anointing of the bodily senses of the sick person as explained later.

SECTION 2. The Form

1. The form of this Sacrament when the five senses are anointed consists of the words prescribed for the several senses in the ritual (tit. v., c. 2).

2. In cases of necessity, as imminent approach of death from sickness or old age, or from extrinsic causes, such as serious wounds, one anointing alone suffices, given on one sense, or preferably on the forehead, and if not possible there, on a part near it, and the form to be used is: *Per istam sanctam unctionem indulgent tibi Dominus quidquid deliquisti. Amen.* If, however, the immediate danger of death has passed, the other anointings must be done absolutely, not conditionally (S.O., March 9, 1917), and if the danger of death persists, they may be done at once, or if that is impossible, at any time during the same dangerous sickness.

3. If the Sacrament has to be given to several persons on the one occasion, the priest first offers the crucifix to each to be kissed, then recites in the plural number the prayers which precede the unctions, then anoints each person in the usual way, and after having anointed all, recites the rest of the prayers in the plural number (S.R.C., Aug. 9, 1922).

CHAPTER III

THE MINISTER OF THE SACRAMENT
(cc. 938, 939)

SECTION 1. Valid and Lawful Administration

I. This Sacrament can be validly administered only by one who has received the Order of priesthood. In the Latin Church there is only a single minister of administration: in the Oriental Church there are several ministers, but if the matter and form are applied

successively, the action of the first minister is the Sacrament, the actions of the others arc sacramentels.

2. 1'he ordinary minister of this Sacrament is the parish priest or local Ordinary of the place where the sick person is. The right of administering it belongs to the parish priest, but in a case of urgency any priest may give it, and even apart from urgency any priest may administer it with the reasonable presumption of permission of the parish priest. But a Superior of clerical Religious may anoint not only the professed and the novices, but those who are staying in his house for sendee, education, hospitality, or health (c. 514), and his own Religious outside the house, but then privately (P.C.C.J., June 16, 1931).

SECTION 2. Obligation to Administer the Sacrament

The obligation to administer this Sacrament is grave. The parish priest and those who in law are equivalent to him, and also the Rector of a Seminary, and the Superior of Clerical Religious, are obliged in justice to administer it personally or by proxy. Other priests are obliged to do so by charity. In cases of grave need, the parish priest must administer the Sacrament even at the risk of his life, unless some provision can be made for another priest to administer it. Such a case would arise if one of the faithful was dying unconscious, and known or suspected to have been in grave sin before losing consciousness. The case would then be one of extreme need, or at least of grave need.

CHAPTER IV

THE SUBJECT OF THE SACRAMENT
(cc. 94θ-944)

SECTION 1· Conditions for Reception

I. Extreme Unction cannot be administered except to one of the faithful who has attained the use of reason, is in danger of death from sickness or old age, and wishes to receive it. The wish to receive the Sacrament must be at the least the habitual wish included in the general wish to have what is necessary for salvation.

2. The perfect use of reason is not necessary. In doubt as to the use of reason, the Sacrament may be given conditionally. Children who have reached the use of reason, however innocent they may appear, should not be refused the Sacrament, even if they have not made then- first Holy Communion. But an act of sorrow is necessary, for if they

have the use of reason they were capable of sin. Lunatics from birth are incapable of receiving it, but those who, at any time after Baptism, had the use of reason, though they lost it subsequently, are capable subjects. For valid and lawful reception, it is not necessary that the subject should have actually sinned. Thus one who, in serious illness, received Baptism, may receive the Sacrament immediately after Baptism (cf. S.O., May 10, 1703; P.F., Sept. 26, 1821).

3. Probable danger of death suffices. If the sick person thinks that he is in danger, though others do not think so, he may be anointed at least conditionally. It is a deplorable abuse to defer the administration of the Sacrament until the dying person is *in extremis*. It should be given betimes, before the mind becomes obsessed with the fear of death.

4. Since the danger of death (at least probable) from sickness or old age is essential for valid reception, the Sacrament cannot be given to soldiers going into battle, nor to condemned criminals, nor to one about to undergo a dangerous surgical operation, unless he is at the moment in danger of death from sickness or old age.

SECTION 2. Repetition of the Sacrament

i. It is certain that this Sacrament can be given repeatedly to the same person, though not in one and the same dangerous sickness. It can be given as often as a sick person falls into a fresh danger of death, whether during the same protracted sickness, or owing to another sickness. As it is often difficult to decide when danger of death ceases in a lingering sickness, the Sacrament may be given every month, unless it is obvious that the same danger has persisted all the time, a fact which it is practically impossible to determine in most cases.

SECTION 3. Conditional Administration

1. When it is doubted whether or not the sick person has attained the use of reason, or is in real or probable danger of death, the Sacrament is to be administered conditionally.

2. Though the Sacrament is not to be given to those who, being impenitent, contumaciously persevere in the state of manifest mortal sin, it may be given when they become unconscious.

3. In the case of those who, before losing consciousness, asked for the Sacrament at least implicitly, or probably would have asked for it, the Sacrament must be given absolutely.

4. When the Sacrament is given conditionally in doubt about the subject being still alive, the ritual prescribes the condition, *"si vwis"*. No other condition need ever be expressed. Since no one knows when death supervenes in cases of lingering sickness, after apparent

death, or in sudden apparent death not due to serious accident, Extreme Unction may be given hours after apparent death until putrefaction has set in.

SECTION 4. The Necessity of Receiving the Sacrament

This Sacrament is not necessary for salvation, but its reception, if possible, may not be disregarded. It may, indeed, be a necessary Sacrament in the case of a person dying unconscious who had not been absolved, but expressed a wish to receive the Last Sacraments before he lost consciousness. If such a one recovers consciousness and makes an act of attrition, Extreme Unction received previously bestows its grace.

CHAPTER V

RITES AND CEREMONIES OF THE SACRAMENT
(cc. 945-947)

i. The anointings must be given accurately in the order and manner prescribed in the ritual, though the order is not necessary to validity, but matter and form are. The unctions are given to eyes, ears, nostrils, lips, hands and feet; the latter unction may be omitted for any reasonable cause. The right part of a double organ is anointed first, the lobes of the ears are anointed, the lips are anointed with a vertical cross on both lips and a horizontal cross on either; the palms of a lay person and the backs of the hands of a priest are anointed. If the feet are anointed, the unction should be on the insteps. The anointing of the loins is omitted.

2. The unctions are given by hand not with an instrument, but in case of a contagious disease, a small piece of cotton wool soaked with holy oil and wrapped round a small stick or pencil should be used, but this wool should not be dipped into the oil stock after having touched the skin of the sick person. The pieces of wool (and they may be five), each soaked in the oil used for the senses, and the stick used, should be burned. If the stock has been contaminated, its contents must be taken out and burned, and the stock disinfected.

T

TREATISE XIX

CHAPTER I

ORDERS IN GENERAL

(cc. 948-950)

Holy Orders distinguish clerics from lay persons in the Church and set them aside for the government of the faithful and the ministry of divine worship.

The priesthood, diaconate and subdiaconate are called Sacred or major Orders; the minor Orders are those of acolyte, exorcist, reader, doorkeeper. The first tonsure is not an Order but a rite, which initiates a person into the clerical state of life.

The episcopate, priesthood and diaconate are Sacraments; the Sacrament of Sacred Orders bestows spiritual powers on the recipient, and the grace to enable him to perform worthily the duties which are annexed to the several offices of Orders. It also imprints an indelible spiritual seal.

CHAPTER II

MATTER AND FORM

SECTION 1. Tonsure and Minor Orders

I. The essential rite in the bestowal of tonsure consists in the cutting off by the minister of some of the natural hair from the front, the back, and each side of the head of the subject, whilst reciting the-form, which the recipient repeats: *Dominus pars haereditatis meae et calicis mei, tu es qui restitues haereditatem meam mihi.* In a case where only false hair of the subject was cut off the rite was convalidated (S.R.C., Sept. 25, 1846).

2. The doorkeeper receives keys (one key suffices), whilst the minister pronounces in Latin the forms: "So act as having to render an account to God for the things kept under these keys." The door-keeper is led by the archdeacon or his deputy to the door of the church, which he locks and unlocks, and rings a bell, not necessarily the church bell. The door is not necessarily to be locked and unlocked.

3. The reader receives a book of Lessons, and while he touches it

with his right hand, the minister pronounces the form in Latin: "Receive this and be a reader of the Word of God, that by the faithful and profitable fulfilment of your office, you may have part with those who have rightly ministered the Word *of God* from of old."

4. The exorcist receives a book in which the exorcisms are set forth, touches it with his right hand, whilst the minister pronounces in Latin the form: "Take and commit this to memory and receive the power of imposing hands on demoniacs, whether baptized or catechumens." The book may be the missal, pontifical or ritual.

5. The acolyte receives a candlestick with unlighted candle and empty cruet or cruets, which he touches with his right hand, whilst the minister pronounces the form in Latin for each separately: "Take this candlestick with candle, and know that you are bound to fight the lights of the church, in the name of the Lord," to which the candidate replies, "Amen." "Take this cruet to present wine and water for the Eucharist of the Blood of Christ, in the name of the Lord," to which the candidate replies, "Amen."

SECTION 2. The Suhdiaconate

I, The subdeacon receives from the Bishop an empty chalice with paten placed on it; he touches the paten with the first two fingers, and the chalice with the thumb, of the right hand, whilst the Bishop pronounces in Latin the form: "Behold the ministry that is committed to you; therefore I admonish you so to bear yourself that you may be pleasing to God." Then the archdeacon hands the subdeacon two cruets of wine and water, the lavabo dish and towel, each of them to be touched. After two prayers, the Bishop vests the subdeacon with amice, maniple, and tunic, pronouncing in Latin the appropriate forms for each, namely: "Take this amice, by which restraint of the tongue is signified. In the name of the Father, etc." "Take this maniple, by which is meant the fruit of good works. In the name of the Father etc." "May the Lord clothe thee with the garment of gladness and the vesture ofjoy. In the name of the Father, etc."

2. The Bishop then hands to the subdeacon a book of epistles to touch with his right hand and says in Latin: "Take the book of epistles, and receive authority to read them in the holy Church of God, both for the living and the dead. In the name of the Father, etc."

SECTION 3. The Diaconate, Priesthood, Episcopate

An Apostolic Constitution of Nov. 30, 1947, decided the matter and form of the diaconate, priesthood and episcopate as follows, to take effect from midnight, April 27-28, 1948:

1. The matter of ordination to the diaconate is the one imposition of the hand by the ordaining Bishop which occurs in the rite. The form is expressed by the words of the Preface, and the essential words are: *Emitte in eum, quaesumus, Domine, Spiritum Sanctum, quo in opus ministerii tui fideliter exsequendi septiformis gratiae tuae munere roboretur.*

2. The matter of ordination to the priesthood is the first imposition of hands by the ordaining Bishop done in silence, not the continued extension of the Bishop's right hand, nor the last imposition of hands. The form is expressed by the words of the Preface, and the essential words are: *Da, quaesumus Omnipotens Pater in huncfamulum tuum Presbyterii dignitatem; innova in visceribus ejus spiritum sanctitatis, ut acceptum a Te, Deus, secundi meriti munus obtineat, censuramque morum exemplo suae conversationis insinuet.*

3. The matter of consecration of a Bishop is the imposition of hands by the consecrating Bishop.

The form is expressed by the words of the Preface, the essential words being: *Comple in Sacerdote tuo ministerii tui summam, et ornamentis totius glorificationis instructum coelestis unguenti rore sanctifica.*

Note

In the consecration of a Bishop, each of the two co-consecrator Bishops must employ the matter and the form with the intention of conferring episcopal consecration in the same way as the chief consecrating Bishop. The other ceremonies are required for liceity not for validity.

In all cases, the imposition of hands must be a physical contact, but moral contact, i.e. extension of hands, is sufficient for validity.

APPENDIX

Replies on Orders received before April 1948.

Cases on the diaconate, priesthood, and episcopate received on or after midnight, April 27-28, 1948, must be solved with reference to the Apostolic Constitution of Nov. 30, 1947. Cases on the Orders received before that date are solved in accordance with what follows.l

Is Tonsure

First tonsure is doubtfully conferred if the Bishop does not cut off some of the natural hair of the candidate (S.R.C., Sept. 25, 1846).

2. Doorkeeper

takt? 1934, with the kind permission of the author of the Dissertation on defects in conferring Sacred Orders, Fr. Xav. Hecht, P.S.M.

(a) The keys may be touched by several together (S.R.C., March 11, 1820; June 20, 1899).

(/») The church door need not be locked and unlocked with the key, the church bell is not necessarily to be rung; the altar bell suffices (S.R.C., Nov. 12, 1831; Sept. 27, 1873).

3. Reader

The book to be touched may be missal, breviary, or the Bible, or some section of it (S.R.C., Sept. 27, 1873).

4. Acolyte

The candlestick alone need be touched. The candle need not be touched. This is stated by analogy with the touching of the paten but not the chalice in the rite of ordination to the priesthood (S.O. March I?, 1897).

5. The subdiaconate

(a) The subdiaconate must be given afresh if the chalice and paten had not been presented by the ordaining Bishop (S.O., Aug. 1, 1697)·

(ε) Several candidates may touch the chalice and paten simultaneously (S.R.G., March 11, 1820) : it is sufficient to touch the paten alone (March 17, 1897).

(r) The handing of the book of epistles or missal is not essential, but if omitted, or if handed by any other than the ordaining Bishop, that part of the rite is to be repeated, and may be repeated privately outside Mass with the appropriate form (S.C. Cone., Jan. io, 1711).

6. The diaconate.

(a) If the ordaining Bishop did not physically touch the head of the candidate, the whole rite must be repeated conditionally (S.O., Aug. 19, 185r i Jan-20, 1875; Jan. 26, 1898).

(£) The ordination is valid if the ordaining Bishop failed to extend his right hand towards the candidate during the prayer *Emilte in eos,* etc. (S.O., Sept. 7, 1892; S.R.C., 1932).

(r) If the book of the gospels or missal was not handed at all to the candidates, or not handed by the ordaining Bishop, that part of the rite must be supplied with its appropriate form (S.R.C., June 16, 1837; S.O., Aug. i, 1697).

7. The priesthood.

(a) The imposition of hands.

There are three impositions of hands by the ordaining Bishop. The first is done on the head of each candidate without any form being pronounced; the second is the extension of the right hand of the Bishop towards all the candidates together; the third is done after the Communion of the Mass.

(/›) The first imposition.

(i) If the ordaining Bishop did not physically touch the head of the

candidate (not necessarily the bared head), the whole ordination must be repeated conditionally (S.O.,Jan. 22, 1890; Aug. 19, 1851; July 4, 1900; May 7, 1902).

(ii) If both the first and the second impositions of hands were omitted, but supplied before the handing of the instruments, the ordination is valid (S.O., May 3, 1899); if supplied after the handing of the instruments, and this latter part of the rite had not been repeated after the rectified omission of impositions of hands, the whole ordination must be repeated conditionally (S.O., Aug. 22, 1900).

(iii) The imposition of hands by the priests present at the ordination is not essential, nor need it be supplied (S.C. de P.F., Aug. 6, 1840).

(c) The second imposition or extension of the right hand.

(i) The ordination is valid:

(a) If the ordaining Bishop holds extended his right hand during the interval after the first imposition up to the following prayer (S.O., Sept. 12, 1877; Nov. 30, 1898).

(α) If he extended his right hand immediately before the prayer *Oremusfratres carissimi* (S.O. Nov. 30, 1898).

(c) If he extended his right hand during the prayer *Oremus fratres carissimi,* and not during the interval between the first imposition and the prayer *Oremusfratres carissimi* (S.O., April 27, 1870; S.R.C., June ’4» ιθ73)·

(d) If he extended his right hand only towards the end of the prayer *Oremus fratres carissimi,* or even for a short time after the said prayer (S.O., Nov. 30, 1898; Dec. 14, 1898).

(ii) If the ordaining Bishop did not extend his right hand at all towards the candidates, the ordination is to be repeated conditionally (S.O., March, 17, 1897; July 6, 1898; Nov. 30, 1898; July 19, 1899).

(iii) The ordination is valid if the ordaining Bishop had previously omitted the extension of his right hand but had supplied it before the handing of the instruments, and at the same time had repeated the prayer *Oremusfratres carissimi* (S.O., July 6, 1898).

(iv) A priest who fears that he had withdrawn too far away from the other candidates during the second imposition of hands need have no anxiety (S.O., Dec. 2, 1896).

(d) The third imposition of hands.

(i) If the third imposition of hands had been omitted, or had been inadequately done, it must be repeated (S.O., Dec. 3, 1637).

(ii) If the ordaining Bishop made a mistake in the form which he used when giving the power of forgiving and retaining sins, the third imposition of hands must be repeated with its appropriate form without the preceding accidental ceremonies (S.O., May 27, 1840; Dec. 9, 1897).

(iii) If the ordaining Bishop did not, at the imposition of hands,

physically touch the head of the candidate, he must repeat that part of the rite with its appropriate form (S.O., Aug. 19, 1851).

(iv) In negative doubt about this physical contact, nothing need be repealed (S.O., June 8, 1898).

(e) The anointing of hands.

(i) The interior of the hands, including the fingers, is to be anointed (S.R.C., Jan. 12, 1917).

(ii) If the anointing had been omitted it must be supplied, but if the anointing had been done with sacred chrism instead of with the holy oil of catechumens (S.O., July 22, 1874) nothing need be repeated, or if it had been done with holy oil of the sick, for the ancient pontificals allowed that.

(iii) Nothing is to be repeated if the ordaining Bishop, during the anointing, pronounced only half of the form over each of the candidates, and then in anointing the last candidate completed the form intending it to extend to all the candidates (S.O., Nov. 28, 1900).

(iv) A soldier who has lost his first finger does not need the anointing of his middle finger in order that he may celebrate Mass (S.R.C., Jan. 12, 1917).

(*f*) The chalice and wine.

(i) The chalice must contain wine and the paten must have a host resting on it, both matters being fit matter for the Holy Sacrifice of the Mass. Chalice and paten need not be consecrated.

(ii) The absence of water in the chalice does not affect the ordination, since it is not essential matter of the Sacrifice (Missal, *de defect.* iv. 7).

(iii) If the chalice contained nothing at all, or only water, or equal quantities of wine and water, or more water than wine, ordination must be repeated conditionally (S.O., Jan. 11, 1899; Jan. 20, 1886; Sept. 7, 1892), even if these defects were corrected after the Communion before the third imposition of hands (S.C. de Sacr., Nov. 6, 1910; June 21, 1925).

(iv) Ordination is not affected if the water in the chalice was only a little more than a fifth part (S.O., March 11, 1903), or certainly less in quantity than the wine (S.O., April 11, 1932).

(g) The paten and host.

If there was no host on the paten, ordination must be repeated conditionally (S.O., Jan. 17, 1900), or if it fell on the ground before the paten was touched and the form pronounced (S.O., July 6, 1898).

(*h*) Handing of the instruments.

(i) If the Bishop himself did not hand the instruments the ordination must be repeated conditionally (S.O., Aug. 1, 1697).

(ii) The handing of the Instruments must follow the twofold imposition of hands (S.O., May 3, 1899; Aug. 22, 1900).

(iii) The chalice containing wine and water, and the paten with host, must be handed to each candidate, and the form pronounced in the singular number (S.R.C., March 1i, 1820), but ordination is not affected if the ordaining Bishop has handed the instruments to several together (S.O., Jan. 23, 1874), though he has pronounced the form in the singular number (S.O., Jan. 16, 1901). The ordination is not affected if, whilst the instruments are being handed, the form is slightly interrupted (S.O., April 20, 1898).

(l) Touching the chalice and paten.

(i) Ordination is not affected if the candidate touched the chalice and host but not the paten (S.O., July 25, 1866; Nov. 22, 1871; June 9› 1875; June 22, 1892; May 8, 1895).

(ii) Ordination is not affected if the candidate touched the paten and host but not the chalice, or the chalice but not the paten (S.O., May 8, ; Dec. 14, 1898), or if the chalice was first touched and then, whilst the ordaining Bishop was pronouncing the form, the paten was touched (S.O., March 17, 1897; Jan. 17, 1900).

(iii) Ordination is not affected if the candidate first touched the instruments, but afterwards, whilst the ordaining Bishop was pronouncing the form, the said candidate was prevented from touching them by the hands of other candidates (S.O., March 17, 1897).

(j) Accidental rites.

(i) The vesting with stole and chasuble, if omitted, need not be supplied.

(ii) The promise of obedience, if omitted, need not be supplied.

CHAPTER III

THE MINISTER OF ORDINATION
(cc. 951-957)

SECTION 1. Ordinary and Extraordinary Ministers

i. The ordinary minister of ordination is a consecrated Bishop. The extraordinary minister is one who, though not a Bishop, has received by law or induit from the Apostolic See the power of conferring some of the Orders.

2. Without faculty from the Apostolic See no one is allowed to promote to a higher Order one who has been ordained by the Roman Pontiff.

3. The consecration of a Bishop is reserved to the Roman Pontiff; papal mandate is required for a Bishop to consecrate a Bishop.

4. A consecrating Bishop must have two other Bishops as assistants during the consecration, unless dispensation has been obtained from the Holy See. They are to be termed Co-Consecrators *{Const. Apost.,* Nov. 30, 1944). The assistant Bishops must employ matter and form with the intention of conferring episcopal consecration.

5. Everyone who receives Orders must receive them from his own Bishop, or must at least have dimissorial letters from him, apart from privilege.

6. A Bishop must, unless legitimately prevented, ordain his own subjects, but may not ordain subjects who belong to the Oriental rite without Apostolic induit.

SECTION 2. The Bishop of Ordination for Secular Clergy

1. The only proper Bishop of ordination of the secular clergy is the Bishop of the diocese in which the candidate has a domicile of origin, or a simple domicile not that of origin. In the latter case, the candidate must take an oath to remain permanently in the diocese, with three exceptions:

(a) Unless the candidate has already been incardinated in a diocese by first tonsure.

(b) Unless the candidate, being a subject of the ordaining Bishop, is destined for service in another diocese; in this case, the candidate is incardinated in the latter diocese (P.C.C.J., Aug. 17, 1919), and the Bishop of the latter has the proper and exclusive right of conferring Orders and granting dimissorial letters to the said incardinated cleric (P.C.C.J., Dec. 7, 1931, private), and can do so in the case of a layman who receives tonsure from his own Bishop, though he has not acquired a domicile in the diocese of the ordaining Bishop (P.G.C.J., July 24, 1937).

(c) Unless the candidate is a professed Religious.

2. Apostolic Vicars or Prefects, Abbots or Prelates of independent jurisdiction, if Bishops, can act as a diocesan Bishop acts in regard to ordinations. But if they are not Bishops, they can only confer, but within their own territories and during their term of office, first tonsure and minor Orders on their own subjects, and on others who present the dimissorial letters required by law.

CHAPTER IV

DIMISSORIAL LETTERS
(cc. 958-963)

SECTION 1. The Grantor of Dimissorial Letters

For seculars, the following can grant dimissorial letters, so long as they retain jurisdiction in their respective territories:

1. The proper Bishop, even if not consecrated, after taking legitimate possession of his See (cf. c. 334, §3).

2. The Vicar General, but by special mandate of the Bishop.

3. The Vicar Capitular with the consent of the Chapter after one year's vacancy of the See, and during the first year of vacancy, to those who have received, or will receive, a benefice, or are appointed to some office which must be provided without delay for the needs of the diocese, but not to such as have been rejected by their Bishop.

4. A Vicar or Prefect Apostolic, Abbot or Prelate of independent jurisdiction, though not a Bishop, can give such letters, even for the reception of major Orders; also a pro-Vicar Apostolic within the year from the vacancy of the See.

5. Those who can give dimissorial letters for the reception of Orders can also personally confer the same Orders, if they themselves have the necessary power of Orders.

6. The Bishop of the diocese, for the service of which a lay person has received first tonsure from his own Bishop, has the exclusive right to grant him dimissorial letters even though he has not acquired a domicile in the diocese (P.C.C.J., July 24, 1939).

SECTION 2. The Granting of Dimissorial Letters

1. These letters may not be granted unless all legal guarantees have been exacted, as prescribed in the canons (cc. 993-1000). But if additional guarantees are needed, as prescribed in the canons (c. 994, §3), ordination may not be conferred without them. If the candidate has resided long enough to incur an impediment in the diocese of the Bishop who is to ordain him in virtue of dimissorial letters, that Bishop must himself obtain the additional guarantees.

2. Dimissorial letters issued by the proper Bishop, or by those who can grant them, or by a suburbicarian Cardinal-Bishop, may be sent by these to any Bishop of the same rite as the ordinand in communion

with the Apostolic Sec; to send them to a Bishop of different rite would require an Apostolic induit.

3. Any Bishop, on receipt of the dimissorial letters, can licitly ordain a candidate not his own subject, provided that he cannot doubt the genuineness of the said letters, and that he had not himself to make further investigations.

4. Dismissorial letters can be revoked or restricted in their use by the grantor or his successor, but once they have been granted they remain valid though the grantor has gone out of office.

CHAPTER V

THE ORDINATION OF RELIGIOUS
(cç. 964-967)

i. Members of exempt religious Orders cannot be licitly ordained by any Bishop unless they produce dimissorial letters from their higher Superior.

2. An Abbot actually in office with real power of ruling, if a priest and with abbatial blessing, even though he has no independent jurisdiction, can confer first tonsure and minor Orders on one of his own subjects, if the ordinand is his subject by at least simple profession. These restrictions affect the validity of his ordaining unless he is also a Bishop.

3. Superiors can give dimissorial letters to their subjects professed of simple temporary vows only for first tonsure and minor Orders; to subjects professed of perpetual vows, they can give such letters for receiving major Orders.

4. The dimissorial letters must be sent to the Bishop of the diocese in which the religious house is situated to which the candidate belongs. But they may be sent to some other Bishop in the following cases:

(a) If the diocesan Bishop gives permission

(i) If the said Bishop belongs to a different rite

(c) Ifhe is absent

(rf) If he will not confer Orders at the next legitimate time for conferring them

(e) During the vacancy of the See if the Administrator of the diocese is not a Bishop.

If another Bishop ordains in consequence of any of the aforesaid reasons, he must be apprised of the reason, by means of an authentic document issued from the episcopal Curia.

5. Religious Superiors must take care not to send a subject to another religious house to be ordained there to evade the local Bishop's rights in the matter, and not to defer the issue of dimissorial letters of set purpose until the Bishop is absent, or will not confer any Orders. A Superior acting thus would incur suspension from the celebration of Mass for a month (c. 2410). Apostolic induits are granted to some religious Orders which empower the Superior to send their subjects for ordination to any Bishop.

CHAPTER VI

THE SUBJECT OF ORDINATION
(cc. 968-972)

1. Only a baptized male can be validly ordained; for licit ordination the candidate must be endowed, in the opinion of his proper Ordinary, with the qualities required by the canons and must be free from irregularities and all other impediments.

2. If a candidate had been ordained who was subject to an irregularity or other impediment, even if it arose after ordination through no fault on his part, he is forbidden to exercise the Order received.

3. It is forbidden under pain of excommunication not reserved (c. 2352) to force anyone to embrace the clerical state. But preachers, masters, confessors, parents and others, are not precluded from giving prudent advice, or making suggestions to a youth on the dignity of the clerical state; indeed, vocations should be both created and fostered with apostolic zeal. It is also forbidden, but not under censure, to deter one from becoming a cleric.

4. No one should be ordained to the secular priesthood who, in the judgment of his own Bishop, is not necessary or useful for the churches of the diocese, since an excessive number of clerics, many of whom are not occupied in ministerial work, leads to dangerous idleness and laxity. Nevertheless a Bishop is not forbidden to ordain his own subjects for HUI ediate sendee in another diocese after they have been legitimately affiliated to it.

5. A Bishop or higher religious Superior may forbid, even without formal procedure, his subjects to receive Orders owing to a canonical cause, even occult, but the subject has the right of recourse to the Holy See; a Religious, to his General.

6. Those who aspire to Sacred Orders should be received into a Seminary at an early age. It is highly desirable that they should

pursue their preliminary scholastic studies in a Seminary, so that they may become accustomed to the atmosphere of an ecclesiastical culture. But the course of theological studies must be done in a Seminary, unless in some particular case and for a serious reason the Ordinary dispenses from that canonical rule, but he is reminded by the canons that it is a matter of conscientious obligation. If the candidate does pass the years of theological studies outside the Seminary, he must be put under the charge of a fit and pious priest to watch over him and train him to piety.

CHAPTER VII

PREREQUISITES OF ORDINATION
(cc. 973-982)

SECTION 1. Fitness for Ordination

I. The first tonsure and minor Orders are to be conferred only on those who intend to receive the priesthood and who, it may rightly be hoped, will one day become worthy priests. But if, after having received tonsure and minor Orders, a candidate refuses to advance further, he cannot be obliged by his Bishop to take higher Orders, nor may he be forbidden to exercise the Orders which he has, unless there is some canonical impediment, or in the judgment of his Bishop some other reason for the prohibition exists.

2. The Bishop shall not confer Orders on any person unless, by positive evidence, he is morally certain of the canonical fitness of the said person; failing moral certainty, if he ordained one who is unfit, he would not only sin most grievously, but would run the risk of cooperating in the sins of others. The matter is fully dealt with by Pope Pius XI in the *Encyclical Letter on the Catholic Priesthood.*

SECTION 2. Licit Ordination

For licit ordination, the candidate must have been confirmed, be morally fit for the Order to be received, be of canonical age, have the requisite knowledge, must have received the preceding Orders, must observe the intervals between the several ordinations, and must have a canonical title in the case of major Orders.

SECTION 3. Ages for Ordination

1. Tonsure and minor Orders may not be given before the inception of theological studies in a Seminary. The age of the candidate is, therefore, not fixed.

2. The subdiaconate may not be conferred before the age of twenty-one years completed, and not before the approaching conclusion of the third year of the theology course; the diaconate not before the age of twenty-two years completed, nor before the beginning of the fourth year of the theology' course; the priesthood not before the twenty-fourth year completed, nor before the middle of the fourth year of the theology' course.

SECTION 4. The Intervals Between the Several Ordinations

1. Orders must be received in their proper succession so that ordinations *per saltum* are forbidden, apart from privilege.

2. The intervals between the several ordinations of a candidate must be observed, and during those intervals the ordained must, in accordance with episcopal ruling, exercise the functions of the Order received.

3. The Bishop is to determine the intervals between first tonsure and the first minor Order, and between the several minor Orders, but the acolyte should not receive the subdiaconate till one year after his minor Orders; the subdeacon is not to receive the diaconate, or the deacon the priesthood, until after intervals of three months at least, unless the need or utility of the Church demand shorter intervals according to the judgment of the Bishop.

4. It is not permitted, except with special permission of the Roman Pontiff, to confer minor Orders and the subdiaconate, nor two of the major Orders, on one and the same day; contrary custom is reprobated; nor may the first tonsure be given together with a minor Order, nor all the minor Orders on the one occasion, but contrary custom, centenary' or immemorial, is not reprobated.

SECTION 5. Canonical Titles

1. Every cleric on receiving major Orders must have a canonical title. The rule was originally due to the need of assigning to each cleric at ordination a church or monastery which he would serve, and from which in return he could expect an honourable maintenance.

2. The title to maintenance must be secure for the whole life of a cleric and truly sufficient for befitting maintenance, the standard being fixed by local Ordinaries in accordance with place and time.

3. The title for secular clerics is that of benefice, or in its default, patrimony or pension. If none of these is available, the defect may be supplied by the title of service in the diocese, or in those places which are subject to the Sacred Congregation of the Propagation of the Faith by the title of the mission, but with the obligation that the ordained cleric must bind himself by oath to serve the diocese or mission permanently under the direction of the local Ordinary. This title of mission was granted to the English College in Rome and extended to all colleges under Propaganda, and then to missionary countries.

4. The Ordinary who has ordained a priest on the title of service of a church (diocese), or of mission, must make sufficient provision for his fitting maintenance by means of benefice, office, or assistance in some other way.

5. The canonical title for Regulars is that of solemn profession, that is, of poverty. For Religious of simple vows that are perpetual, the title is termed that of common board or Congregation, or something similar. Other Religious are ordained on the same title as that of seculars, as are also those members of pious communities who do not take vows.

CHAPTER VIII

IRREGULARITIES AND OTHER IMPEDIMENTS
(cc. 983-991)

SECTION 1. Nature and Scope of Irregularity

I. Irregularity is a canonical impediment to ordination, or to the continued exercise of Orders and is of its nature permanent. This rule of law is designed for the honourable and fitting condition of the clerical state. A simple impediment is only a temporary obstacle to the reception of Orders.

2. Irregularity may arise from defect or delinquency, the latter being incurred only by grave fault.

SECTION 2. Irregularity Due to Defect

The following facts give rise to irregularity by defect:

I. Illegitimacy, whether public or occult, unless it has been removed by the subsequent marriage of the parents of the illegitimate person, or by papal rescript, or by solemn profession. But original illegitimacy is a bar to the dignity of Cardinal (c. 232) and Bishop (c. 331). The irregularity is termed *defectus natalium*.

2. Bodily defect due to weakness or deformity', preventing the safe or fitting exercise of the ministry of the altar. But if Orders have already been received, a grave defect would be required, nor would the defect be an obstacle to the exercise of such acts as could be dulv performed. The loss of the left or canonical eye docs not constitute an irregularity (S.C. Rel., Nov. 28, 1924, private). Dispensation was given to one who had lost his right hand and wrist, on the condition that he was fitted with an artificial hand and could perform all the actions required for saying Mass (S.C. de Sacr., July 1, 1918).

3. Epilepsy, insanity, diabolical possession past or present. Dispensation may' be granted if the condition of epilepsy has been arrested for some time. If the condition supervened after ordination, the Ordinary can permit his subject to exercise Orders already received if the malady has certainly' disappeared. Dispensation from the other two defects has been refused.

4. Two or more valid marriages successively contracted. Persons who marry' a second time are termed bigamists in the canonical sense.

5. Infamy of law. This is a penalty inflicted by law for certain crimes (c. 2293), namely, mishandling the sacred species of the Holy Eucharist, taking or keeping them for an evil intention (c. 2320), violation of corpses or tombs for purposes of theft or other evil intent (c. 2328), violent physical attack on the Roman Pontiff, Cardinal, or Legate of the Roman Pontiff (c. 2343), duelling or acting as second in a duel (c. 2351, § 2), even if the duel involve no danger of serious wounds (S.C. Cone., June 13, 1925), bigamy (c. 2356), certain sexual crimes committed by laypeople (c. 2357), apostasy, heresy, schism, either formal or public (c. 2314).

6. A judicial sentence of death.

7. Cooperation in carrying out a death sentence by' the executioner himself, or his immediate and voluntary assistants.

SECTION 3. Irregularity Due to Delinquency

The following facts give rise to this irregularity.

1. Apostasy, heresy, schism and atheism (P.C.C.J., July 30, 1934).

2. Voluntary' reception of Baptism (except in necessity) from a non-Catholic.

3. Attempted or civil marriage by those already married, or in Sacred Orders, or under religious vows, even simple and temporary', and attempted marriage with a female under religious vows, or already married.

4. Voluntary' homicide, or effectual abortion of a human fetus, or assistance in those crimes.

5. Mutilation of oelf or others, or attempted suicide: the mutilation

must be the deliberate, unnecessary cutting off of a member of the body, which has its proper and complete function, as eye, etc.

6. Unlawful exercise of the medical or surgical art by a cleric with death resulting from it.

7. Exercise of an act of Orders reserved to clerics in Sacred Orders by either one who has not received the said Orders, or one who is forbidden to exercise the Orders by canonical penalty, whether personal (and medicinal or vindicatory), or local.

The aforesaid delinquencies do not give rise to irregularity unless they were grave sins, committed after Baptism, reception of Baptism from a non-Catholic apart from necessity being included, and the crimes must have been external, whether public or occult.

SECTION 4. Simple Impediments to the Reception of Orders

These impediments exist in the cases of the following:

1. The sons of non-Catholics (even if only one parent is non-Catholic), so long as the parents remain non-Catholic; son means one in the first degree of the paternal line only, and even the child of a mixed marriage contracted with dispensation (P.C.C.J., Oct. 16, 1919; July 14, 1922), not, however, if a parent apostatized after the birth of the son.

2. A married man whilst his wife is living.

3. Those engaged in some office or administrative work forbidden to clerics for which accounts have to be rendered, as long as they have not given up the said office or work and rendered their account and have not become free from civil obligations.

4. Slaves strictly so called before they' have been set free.

5. Those legally bound to ordinary military' service, before they have fulfilled the term of service. Those also are affected who are liable to be called up for service, though not in fact called up owing to defect of age or some temporary unfitness (P.C.G.J., June 3, 1918).

6. Converts to the faith until, in the judgment of the Ordinary, they have been sufficiently tested.

7. Those who are infamous in fact, so long as, in the judgment of the Ordinary, the infamy persists. Infamy in fact arises when, on account of crime or depraved conduct, a person has lost the good esteem of prudent and right-minded people (c. 2293, § 3).

Notes on Irregularities

1. Ignorance of irregularity and impediment does not serve as a reason for not incurring them.

2. Irregularities and impediments are multiple if their sources are

multiple, but not by mere repetition of the same act giving rise to an irregularity, unless the irregularity has arisen from voluntary homicide.

SECTION 5. Dispensation from Irregularities and Impediments

1. The Pope can dispense from all canonical irregularities and impediments.

2. Ordinaries can personally, or by delegation, dispense their subjects from all Irregularities arising from occult delinquency, with the exception of those arising from voluntary homicide and abortion, and of those already brought before the ecclesiastical Courts for formal trial.

3. All confessors can dispense as above (n. 2) in urgent occult cases when the local Ordinary is not available, and there is danger of grave harm or defamation in delay, but can dispense, only that the penitent may licitly exercise the power of those Orders which he has. No recourse is subsequently necessary.

SECTION 6. Petition for Dispensation

1. In the petition for dispensation from irregularities and impediments, all are to be mentioned, but a dispensation granted in general terms would avail for those omitted in good faith (with the exception of irregularity arising from voluntary homicide, effectual abortion, or of one already brought before the Court), but not for those omitted in bad faith.

2. In case of irregularity arising from voluntary homicide, the number of such crimes—if more than one—must be mentioned under pain of nullity of the dispensation.

3. A dispensation granted in general terms is good for both minor and major Orders, and the dispensed could receive non-consistorial benefices, even those with care of souls attached to them, but a special dispensation would be needed for promotion to the Cardinalate, Episcopate, Abbacy or Prelacy of independent jurisdiction, and for the office of higher Superior in an exempt clerical religious Institute.

4. A dispensation granted for the internal non-sacramental forum must be entered in writing, and a record of it kept in the secret diocesan archives. This rule will preclude all future controversy.

CHAPTER IX

PRELIMINARIES TO ORDINATION
(cc. 992–1001)

SECTION 1. The Due Preparation for Ordination

1. Due notice of the intention of seeking ordination must be given by both secular and religious candidates to the Bishop or his deputy.

2. Seculars and those Religious who are subject to the same rules in regard to Ordination as seculars must present the following documents: certificates of Baptism and Confirmation for first tonsure; a certificate of the last Order received; testimony that the necessary studies have been completed; a guarantee of the candidate's upright character given by the Rector of the Seminary, or the priest to whose care, outside the Seminary, a candidate was entrusted; testimonial letters of the local Ordinary in whose diocese the candidate had resided for a sufficient period to contract a canonical impediment; testimonial letters of the higher religious Superior in the case of members of a religious Institute.

3. The period during which a canonical impediment can be incurred is, as a general rule, three months in the case of a soldier, and six months in the case of others after the age of puberty (14 years), but the ordaining Bishop may demand testimonial letters for briefer periods of residence and for the time that preceded puberty. As these investigations would often be difficult, the Bishop may accept the sworn affidavit of the candidate himself that he is free from impediments. Fresh testimonial letters will be necessary if, before ordination, the candidate has resided in the same territory during the aforesaid space of time.

4. The Sacred Congregation of the Sacraments has issued (Dec. 27, 1930) minute instructions on the testing by Ordinaries of candidates before promotion to Orders. No candidate who is honest and truthful can now reasonably maintain that he was forced into taking Orders, or that he did not realize what celibacy means. He can be confronted with the document which he signed. Similar instructions were issued to religious Superiors for testing their subjects (S.C. Rel., Dec. 1, 1931). The religious Superior must testify not only that the candidate has made his religious profession and is a member of the religious house subject to the said Superior, but also that he has completed his studies and conforms to all else prescribed by law. The ordaining Bishop does not need any other letters than these.

5. Every candidate for Orders must undergo a previous careful examination on the Orders to be received by him, and if he is to receive

Sacred Orders he must pass an examination in sacred theology, and it is the right of the Bishop to decide the method of examination, who shall be the examiners, and the theological treatises to be presented.

6. A Bishop who has the right to ordain a candidate, or to give dimissoria! letters, has also the right to examine him, but for a good reason he may commit that task to the ordaining Bishop if the latter is willing to undertake it. Even after the examination, the ordaining Bishop may re-examine the candidate, and may reject him if he conscientiously thinks the candidate unfit for Orders.

SECTION 2. Publication of Notice of Ordination

1. The names of candidates for the several Orders, unless they arc Religious who have taken perpetual vows, must be publicly announced in their actual parochial church, but the Ordinary may, for a just reason, dispense from publication there, and may enjoin it in other churches, or may substitute for it a public notice posted at the church doors during several days, at least one of them being a holy day of obligation. If the publication is made in a church, it must be made on a holy day of obligation during Mass, or on another day at the time when there is a large congregation present. If the candidate had not been ordained within six months after the publication, this is repeated unless the Ordinaryjudges otherwise.

2. All the faithful are under the obligation of revealing to the Ordinary or parish priest any impediments they know of, and must do so before the ordination.

3. The Ordinary of the candidate must order the parish priest who made the publications, and others also if he thinks fit, to make diligent inquiry from trustworthy persons concerning the manner of life and the character of the candidate, and the said priest must send the testimonial letters attesting the inquiry and publication to the episcopal Curia. The Bishop should also not neglect to make additional inquiries, even privately, if he judges this to be necessary' or opportune.

SECTION 3. The Spiritual Exercises

I. Candidates for first tonsure and minor Orders must make a spiritual retreat for at least three full days; candidates for Sacred Orders for at least six full days. In the case of those who are to receive several major Orders within the same six months, the Ordinary can reduce the time of spiritual exercises before ordination to the diaconate but not below three full days. If major Orders are to be conferred on a candidate on distinct consecutive or closely following days, so that there is not time to observe the aforesaid prescriptions, the first of the Orders

to be received must be preceded by a retreat of six full days and the other Orders by at least one full day of retreat if, in the prudent judgment of the Bishop, this can be done (S.C. de Sacr. May 2, 1928).

2. If ordination is deferred beyond six months after the retreat, this is to be repeated; if the delay was shorter, the Ordinary is to judge whether or not the retreat is to be repeated.

3. The retreat is to be made by Religious candidates in their own religious house or in some other, in accordance with the prudent decision of the Superior. Secular candidates must make the retreat in the Seminary or in some other pious or religious house determined by the Bishop.

4. The Bishop must be informed by the Superior of the house in which the retreat was made by seculars, or in the case of Religious by the higher Superior, that the retreat was completed.

5. Before the Subdiaconate, the candidate must make a profession of faith (c. 1406, §7), and take the oath against Modernism (S.O.,March 22, 1918).

CHAPTER X
ACTUAL ORDINATION
(cc. 1002-1009)

SECTION 1. Die Rites and Ceremonies of Ordination

i. In conferring any Order, the ordaining minister must observe exactly, without omission or changes, the proper rites set out in the Roman Pontifical and the other ritual books approved by the Church.

2. The Mass of ordination and that of episcopal consecration must always be celebrated by the minister of ordination or consecration respectively.

3. If a candidate has received some Orders according to the Oriental rite, and has obtained an Apostolic induit to receive the higher Orders in the Latin rite, he must first receive according to the Latin rite those Orders which he did not receive in the Oriental rite, as those of acolyte, doorkeeper, lector and exorcist.

4. All who receive major Orders must communicate during the respective ordination Mass. ,

SECTION 2. The Time ami Place of Ordination

1. Episcopal consecration must be conferred during Mass on a Sunday, or a feast day of an Apostle, that is, the anniversary day of death.

2. The major Orders are to be conferred during Mass on an Ember Saturday, or the Saturday before Passion Sunday, or Holy Saturday, but for a grave reason a Bishop can ordain on any Sunday or holy day observed at present, not on one suppressed in the universal Church by the Code (P.C.C.J., May 15, 1936).

3. First tonsure may be conferred on any day and at any hour; minor Orders on any Sunday or feast of the double class, but always in the morning, not necessarily during Mass. Custom contrary to the aforesaid prescriptions is reprobated, and the said prescriptions are to be observed when a Bishop of the Latin rite ordains a cleric of the Oriental rite, or conversely, in virtue of Apostolic induit.

4. Whenever ordination has to be repeated owing to a doubt as to its validity, or when some ceremony has to be supplied, whether absolutely or conditionally, either may be done outside the regular times of ordination and privately.

5. A Bishop may not confer Orders outside his own territory without permission of the local Ordinary when the use of pontificals is required.

6. General ordinations (those which take place on the six Saturdays mentioned above) must be celebrated publicly in the Cathedral church, the Canons of which should be summoned and attend. If ordinations are held legitimately in some other place, it should be one of the more important churches, the higher local clergy being present as far as circumstances permit.

7. For a just reason, a Bishop is not forbidden to hold special ordinations in other churches, or an oratory of the episcopal residence, or of a Seminary', or of a religious house. First tonsure and minor Orders may be conferred in a private oratory.

CHAPTER XI

NOTIFICATION AND RECORD OF ORDINATION
(cc. IOIO, IOXI)

i. After ordination, the names of the ordained and of the minister, the place and date of ordination, must be inscribed in a special register

and carefully kept in the local diocesan archives, and the documents dealing with the ordination must also be carefully kept.

2. Each of the ordained must receive an authentic certificate of the Order received. When one was ordained by a Bishop other than his own with dimissorial letters, the certificate of ordination must be shown to his own Bishop, that the ordination may be entered in a special register to be kept in the archives.

3. In the case of ordinations of the secular clergy, the local Ordinary, and in the case of ordinations of Religious the higher Superior must send notification of the ordinations to subdiaconate to the parish priests of the church in which the candidates were baptized for entry in the baptismal register.

TREATISE XX

CHAPTER 1

MARRIAGE IN GENERAL

SECTION 1. Nature of Marriage

I. Marriage is the lawful contract between one man and one woman, whereby each gives to, and accepts from, the other the exclusive and permanent right to those bodily functions which are naturally apt to generate offspring. As a state, marriage is the permanent and exclusive lawful companionship of one man with one woman arising from their mutual consent to give and accept the aforesaid rights.

2. The primary purpose (not motive) of marriage is the procreation and education of offspring; the secondary purposes (not motives) are mutual help and the allaying of concupiscence in the sexual sphere.

3. The contract is lawful when it is conformed to law, Natural, divine positive, and ecclesiastical (which affects only the baptized), and civil (which affects even the baptized, in so far as civil effects are concerned, if they are just). The distinction between lawful, i.e. not sinful, and legal, i.e. in accordance with law, is to be borne in mind.

4. God is the Author of marriage. By it He wished the propagation and education of human beings. This purpose is to be realized only in monogamous and indissoluble marriage.

5. All human beings can contract marriage unless, in particular cases, some law forbids them to do so. There are natural impediments to marriage, as defect of age; impediments of divine law, as an already existing bond; ecclesiastical impediments, as vow; civil impediments, as consanguinity, affinity and adoption.

SECTION 2. The Married State

1. Marriage, being an institution of God, is morally good; the married state is a morally good state of life: "He that giveth his virgin (daughter) in marriage doth well" (1 Cor. 7. 38). Our Lord honoured marriage by His presence at the feast of Cana in Galilee.

2. There is no general obligation imposed by God on any individual

man or woman to marry. There may be a moral obligation in particular cases for very special reasons, such as the necessary perpetuation of a royal line, or of a particular family, or grounds of justice.

CHAPTER II

THE PURPOSES OF MARRIAGE
(c. 1013, §1)

SECTION 1. The Primary Purpose

The primary purpose of marriage is that purpose which it subserves first of all in the order of nature, namely, the procreation and education of offspring. It is not procreation only, but also the fitting education of human beings in order that they may achieve their natural human perfection, and the orderly perpetuation of the race.

SECTION 2. The Secondary Purposes

I. The secondary purposes of marriage in the objective order are those purposes which, besides the procreation and education of offspring marriage is naturally calculated to realize. These are mutual help and the allaying of, or lawful outlet for, human fleshly concupiscence.

3. The primary purpose of marriage may never be subordinated to the secondary purposes, but it need not be primary in consciousness or intention: men marry for many other reasons, but these may never exclude the primary purpose. When procreation is not likely or even possible, the secondary purposes can usually be realized. The opinion cannot be maintained that the secondary purposes are not essentially subordinate to the primary purpose, and are as primary as, and independent of, the latter (S.O., April 1, 1944). The condition of excluding procreation from the contract would invalidate the marriage.

CHAPTER III

THE ESSENTIAL PROPERTIES OF NLXRRIAGE
(c. 1013, §2)

SECTION 1. The Unity of Marriage

I. The essential properties of marriage are its unity and its indissolubility, the latter of which acquires a special stability in Christian marriage by virtue of its sacramental character.

2. The unity of marriage is its exclusive character, namely, that it is a contract between only one man and one woman, each having conjugal rights over the other to the absolute exclusion of all other persons whilst the bond of the marriage persists. This property of marriage excludes both polyandry and polygyny, the latter being commonly termed polygamy.

SECTION 2. The Indissolubility of Marriage

1. Intrinsic Indissolubility

Marriage is said to be intrinsically indissoluble when it is implied that it cannot be dissolved by the mutual consent of the married parties, nor by lapse of time, nor by failure to secure its primary purpose. Both by Natural law and divine positive law marriage is intrinsically indissoluble: "What God hath joined together let not man put asunder" (Mk. 10. 9.)

The indissolubility by Natural law is stated by Pope Pius IX (Syllabus, prop. 67). Both this natural indissolubility and the apparent exceptions are thus described by Pope Pius XI *{Encyclical Letter on Christian Marriage,* Dec. 31, 1930) :

"This inviolable stability, although not in the same perfect measure in every case, belongs to every true marriage, for the word of the Lord: 'What God hath joined together let not man put asunder', must of necessity include all true marriages -without exception . . . and if the stability seems to be open to exception, however rare the exception may be, as in the case of certain marriages between unbelievers, or amongst Christians in the case of those marriages which, though valid, have not been consummated, that exception does not depend on the will of men, nor on that of any merely human power, but on the divine law, of which the only guardian and interpreter is the Church of Christ."

2. Extrinsic Indissolubility of Marriage

By this term is meant that no human authority can dissolve marriage. The authority of the Church is not human, it is divine, since it is the delegated authority of Christ Himself. Consequently when the Church dissolves the marriage bond, it is acting with God's authority. Catholic teaching on the dissolution of marriage may be set forth as follows:

1. No human authority can dissolve any marriage.

2. Marriage was dissolved among the Jews in virtue of Mosaic legislation with divine sanction.

3. The Church cannot dissolve marriage between the unbaptized so long as both parties to it remain unbaptized.

4. A marriage between two unbaptized persons can be dissolved when one of the parties becomes converted to the faith and is baptized. This dissolution can be effected by either the Pauline privilege, or papal power.

5. An unconsummated marriage between baptized persons can be dissolved by solemn religious profession, or by papal power.

6. A marriage between two baptized persons which has been consummated cannot be dissolved by any authority; death alone severs the bond.

7. A marriage between one baptized person and another not baptized, even if consummated, can be dissolved by papal power.

CHAPTER IV

THE BENEFITS OF MARRIAGE

The benefits of marriage are benefits in relation to the married persons themselves; the substantial benefits of all marriages are the benefits of offspring and conjugal fidelity; an added benefit of Christian marriage is that of the Sacrament.

SECTION 1. The Benefit of Offspring

This benefit means the benefit of having offspring. This is the greatest benefit of marriage in the natural order. Offspring is a gift of divine goodness. The institution of marriage by God was one of the conspicuous gifts of divine love to the human race, a means by which God bestowed on man the participated perfection of divine fecundity.

SECTION 2. The Benefit of Conjugal Fidelity

This benefit is the positive fulfilment of the obligations of the contract, and the denial to any other than the consort of conjugal relations of any kind, complete or incomplete. This benefit safeguards the home, and is the source of contentment and happiness in married life. Furthermore, in God's intention, conjugal fidelity blossoms into perfect conjugal chastity, mutai love, honourable obedience on the part of the wife, not the subjection of a servant, but the willing subjection of one who loves to obey, because right order demands obedience in domestic society to the head and ruler of that society.

SECTION 3. The Benefit of the Sacrament

The crowning benefit of Christian marriage is the Sacrament, for it perfects natural love, confirms the indissoluble union of man and wife, and sanctifies both by its ever-present and inexhaustible graces. It bestows on the married a supernatural power to fulfil the duties of marriage perseveringly to the end of their common lives.

CHAPTER V

KINDS OF MARRIAGE

I. A valid marriage between the unbaptized is one in accordance with Natural law and divine positive law. It is called legitimate.

2. A valid marriage between two baptized persons is one which is contracted in accordance with Natural law, divine positive law, and ecclesiastical law. Such marriage is called ratified before it has been consummated; it is called ratified and consummated when it has been consummated.

3. A marriage of baptized persons is valid and lawful, if no impediment of any kind existed between the parties at the time of marriage, or after its rectification in case it was invalid or unlawful; it is valid but unlawful, if only a prohibitory impediment existed when it was contracted.

4. Marriage is attempted when the parties to it have gone through the external form of marriage, the validity of which was barred by a diriment impediment, or lack of form, or grave fear, duress, or conditions nullifying the contract.

5. Marriage is putative, when, though invalid, it is thought to be

valid by at least one of the contracting parties, and is celebrated in canonical form (P.C.C.J., Jan. 26, 1949).

6. Marriage is canonical, religious and ecclesiastical, when it is contracted in accordance with both divine and ecclesiastical law. It is civil when contracted with the conditions laid down by civil law. The term civil generally means for Catholics an uncanonical marriage in the register office.

7. Marriage is public, if celebrated publicly in presence of priest and witnesses, and after the banns have been called, unless dispensation from them was granted. It is occult, if thé banns were not published and it was celebrated privately in presence of priest and witnesses. It is a marriage of conscience, if the strictest secrecy concerning it must be observed.

8. A clandestine marriage, as it was called, was one that was celebrated without legitimate priest and witnesses. Such marriages were valid before the date of the Council of Trent, which decreed clandestine marriages invalid if attempted in a place where the rule of *Tametsi* had been published (the word *Tametsi* being the first word in chapter 1 of the decree on the reformation of marriage). This legislation was carried further, first by a decree of the Congregation of the Council, usually cited as *Ne Temere* (1907), which made the law against clandestinity universal, with an exception in favour of the German Empire and Hungary, and secondly, by the Code of Canon law (1918), which ruled against clandestinity universally, allowing, however, for marriage without the presence of a priest in exceptional circumstances (c. 1098), and also in the case of baptized non-Catholics (c. 1099, §2).

9. A morganatic marriage is a valid marriage, the woman being of social status inferior to that of the man, and contracted on the condition that wife and children are excluded from the titles and dignities of the husband, and enjoy only those privileges which are conceded at the inception of marriage. It is also called Salic and *sinistrae manus.*

CHAPTER VI

CHRISTIAN MARRIAGE A SACRAMENT
(c. 1012)

SECTION 1. Terms Explained

I. Marriage of the baptized is an outward sign of inward grace, ordained by Jesus Christ, by which grace is given to the married. The outward sign is the consensual contract; the Sacrament was instituted

by Christ when He gave a sacramental character to the contract; the grace bestowed is sanctifying grace given to one in the state of grace.

2. The remote matter of the Sacrament is most probably the right to marital intercourse; the proximate matter is the transference of the right; the form is the acceptance of the right expressed in words or equivalently; the ministers of the Sacrament are the contracting parties; the priest is the authorized witness to the contract.

3. A valid marriage contract between two baptized persons is a Sacrament. The Sacrament begins to exist at the moment when the contract is made. The bond persists and is the permanent Sacrament; it is in that respect like the Blessed Sacrament, which persists so long as the species remain uncorrupted (Pope Pius XI, citing S. R. Bellarmine, in the *Encyclical Letter on Christian Marriage'*).

4. A valid marriage between one baptized and one not baptized is probably not a Sacrament. A valid marriage between two unbaptized persons becomes the Sacrament when they are both baptized.

5. If marriage is contracted in the state of mortal sin, no grace is received. One who receives the Sacrament in such a state, if consciously and deliberately, commits a sacrilege. One who administers the Sacrament in conscious mortal sin probably does not commit a grave sin, but is guilty of venial sin, unless there was a good reason for acting, in which case there was no sin.

SECTION 2. Indications in Sacred Scripture

S. Paul (Ephes. 5, 22-32) teaches the relative duties of husband and wife in Christian marriage. Such a marriage, he says, is a symbol of the union between Christ and the Church, and on that account is a great mystery'. The union between Christ and the Church is effected by grace; so, too, must the union between husband and wife. Furthermore, the husband must love and cherish his wife even as Christ loves and cherishes the Church. This would be impossible unless marriage was blessed with supernatural helps of divine grace, for such love is beyond the natural powers of man.

SECTION 3. Ecclesiastical Documents

1. At the second Council of Lyons (1274), the profession of faith proposed by Pope Gregory X to the Emperor, Michael Palaeologos, explicit mention was made of marriage as a Sacrament in enumeration of all the Sacraments.

2. The Council of Florence (1439) issued the decree for the Armenians, in which it is expressly stated that marriage is one of the seven Sacraments.

3. The Council of Trent (1563) defined the doctrine thus: "If anyone shall say that marriage is not truly and in the proper sense of the term one of the seven Sacraments of the evangelical law, instituted by Christ Our Lord, but that it was an invention in the Church by men, and that it does not confer grace, let him be anathema" (*sess.* xxiv, *can.* 1).

4. Pope Pius XI (*loc. cit.*) wrote of marriage: "This accumulation of benefits is completed and, as it were, crowned by that blessing of Christian marriage which, in the words of S. Augustine, We have called the Sacrament, by which are denoted both the indissolubility of the bond, and the raising and hallowing of the contract by Christ Himself, whereby He made it an efficacious sign of grace."

CHAPTER VII

JURISDICTION OF THE CHURCH OVER MARRIAGE
(cc. 1016, 1038, 1040)

SECTION 1. Extent and Exercise of this Jurisdiction

I. The marriage of baptized persons is ruled not only by divine law but also by Canon law. The Church has an exclusive right and a right independent of the State of ordering everything that regards the valid and licit celebration of Christian marriage, since the contract is a Sacrament. This power is legislative, judicial, coercive, the last named being the power to threaten and punish those guilty of dereliction of marital duties: "If anyone shall say that matrimonial causes do not belong to ecclesiastical judges, let him be anathema" (C. T. *sess.* xxiv, *can.* 12).

2. This jurisdiction is exercised as follows:

(a) It belongs to the supreme ecclesiastical authority alone to decide when divine law forbids or annuls marriage. This authority is vested in the Pope acting personally, or in an Ecumenical Council, or through one of the Sacred Roman Congregations by special mandate or specific approval of the Pope.

(ò) The same supreme authority has the exclusive power of establishing in the case of the baptized, other impediments (besides the impediments of divine law), whether prohibitory, or diriment, in the form of law, general or particular.

(c) Local Ordinaries may forbid marriage, in a particular case, to those residing in their respective territories and their subjects anywhere, but only as a temporary prohibition and for a just reason, and

so long as such reason persists. But an invalidating clause cannot be added to the prohibition except by the Apostolic See.

(rf) Beside the Roman Pontiff, no one can abolish wholly or in part the impediments of ecclesiastical law, whether prohibitory or diriment, nor grant dispensation from them, unless empowered to do so by general law or special induit granted by the Apostolic See.

SECTION 2. Persons Subject to the Matrimonial Laws of the Church

1. All baptized persons, even heretics, schismatics and apostates are subject to the marriage law's of the Church, unless it has expressly and in set terms exempted them in some particulars. Thus the Church exempts non-Catholics when they marry among themselves from the impediment of disparity of worship (c. 1070, §1), and from the canonical form of marriage (c. 1099, §2).

2. The unbaptized are not affected by the Church's laws in the matter, but they are affected indirectly, as when a Catholic wishes to marry an unbaptized person.

3. A convert from paganism is subject to matrimonial impediments after but not before Baptism. Thus first cousin marriages between two pagans, or unbaptized persons contracted before their Baptism remain valid after Baptism.

CHAPTER VIII

JURISDICTION OF THE STATE OVER MARRIAGE

SECTION 1. Marriages of the Baptized

1. The State has no power, direct or indirect, over the baptized in regard to the validity or liceity of their marriages; it cannot establish impediments of any sort, nor deal with their marriage causes. But it is competent to deal with the merely civil effects of their marriages for a just reason, such as dowry, rights of succession, division of property (c. 1016).

2. The civil authority has not the right to insist on a prenuptial certificate of physical and mental fitness for marriage amongst the baptized, if a favourable certificate is a *sine qua non* of contracting marriage. Such a procedure would be the establishment by the State of a prohibitory impediment to Christian marriage.

There is a wealth of documents which both assert the Church's exclusive right to establish impediments to Christian marriage, and

deny the right of the State to set up any impediments to it (cf. Pope Leo XIII and Pope Pius XI, *Encyclical Leiters on Christian Marriage,* and Cappello, *de Matrim.*› II, nn. 69 sqq.). But in case of contagious diseases which are serious, as syphilis, the State can oblige its citizens to submit to medical treatment before they marry, but it cannot oblige them to undergo the treatment as a condition of their validly or licitly marrying if they are baptized Christians.

3. The State may never sterilize a citizen in order to preclude the procreation of diseased or defective children, for it has no power over the bodies or functions of its unoffending citizens (Pope Pius XI, *Encyclical Letter on Christian Marriage*; S.O., March 21, 1931; Feb. 24, 1940). In the latter reply, direct sterilization is stated to be forbidden by Natural law.

SECTION 2. Marriages of the linbaptized

1. The State has the same power over the civil effects of the marriages of the unbaptized as it has over those of the baptized.

2. The State can establish impediments to marriages of the unbaptized, provided that they are just and reasonable, and not contrary to Natural law.

3. Marriage is not merely a civil contract; God is its Author and it is fundamentally religious. Though the State can rule the marriages of the unbaptized to some extent, the Church has the sole right to determine the application of the Natural law in the matter.

CHAPTER IX

BETROTHAL
(cc. 1017, 1018)

SECTION 1. Character of Betrothal

I. Canonical betrothal is a sincere, reciprocal, deliberate and free promise made in legal form by two persons, who are or will be legally capable of marrying one another validly and lawfully, to marry one another at some future date. The legal capacity to marry may exist in either the present or the future. Thus the promise can be made before puberty.

2. A fictitious promise to marry is an act of deceit, so that if harm ensued from it to the party deceived, that harm must be repaired;

if the only reparation possible is marriage, then the deceiver must offer marriage.

3. Betrothal between two persons who need a dispensation to marry is a conditional one, and the mutual promise should be renewed after the dispensation has been obtained.

4. The age of reason is probably a sufficient age for valid and lawful betrothal; it is certainly necessary'.

SECTION 2. Canonical Form of Betrothal

1. The Canonical form of betrothal must be made in writing, by both parties in presence of one another or by proxy, and countersigned by either the parish priest of the place, or the Ordinary', or two witnesses. If either or both of the parties cannot write, that fact must be stated in the document, and a third witness must sign the document with the other signatories; the party or parties need make no sign on the document in that case. The date, month, year must be indicated in the document.

2. The -witnesses may be male or female, and of any age from the age of discretion. Non-Catholics should not be admitted as witnesses without the permission of the Ordinary. Neither parish priest nor Ordinary can delegate others to act for them.

3. Formal canonical betrothal is not common, nor is it obligatory, but it may be recommended, since it adds some fixity to betrothal and helps the engaged to be loyal and faithful to one another.

SECTION 3. Betrothal, Void and Voidable

1. A substantial mistake in betrothal invalidates it, that is, a mistake as to the person with whom betrothal is made, or some quality which is equivalent. An accidental mistake, such as one regarding a quality that is not equivalently a mistake about the person, does not invalidate betrothal, unless the mistake regarded the servile condition of the other party, or some condition *sine qua non* that is incompatible with marriage. But a serious accidental mistake renders betrothal voidable at the option of the mistaken party.

2. Duress or fear that takes away reason or free will invalidates betrothal. Grave fear that is unjustly induced probably invalidates betrothal. Slight fear unjustly induced to force betrothal renders it voidable.

SECTION 4. Conditional Betrothal

1. Conditional betrothal is a promise to marry if certain conditions are fulfilled. If the condition regards a present or past fact and is

verified, the betrothal is valid; if the fact is not verified, it is void. If a condition regards a future impossible contingency, betrothal is void; if it regards a future contingency that is not contrary to right conduct, it is suspended until the condition is fulfilled, and the parties are bound to await the fulfilment of the contingency. If the condition regards a future wrong act, betrothal is void, and probably even if the condition has been fulfilled.

2. A penalty agreed upon if marriage does not take place probably need not be undergone if marriage did not take place, for the contract must be free from all coercion. Presents given during engagement are considered to have been given absolutely, but on breaking off an engagement, the woman usually restores the ring given her by the man. For breach of promise, compensation in damages may be asked for and may be imposed in proportion to the means of the defaulting party. An adult cannot legally sue an infant for breach of promise. Though the Gode of Canon law is not retroactive, an exception is made in favour of an action for damages for breach of betrothal.

SECTION 5. Effects of Betrothal

I. If betrothal was contracted in canonical form there arises an obligation to marry at the time agreed upon, but if no time was agreed upon, then within a reasonable time. The obligation is not juridical, for no action lies in the Church Courts to enforce a marriage. No action for damages will suspend marriage with a third party (P.C.C.J., June 3, 1918). If damage has ensued from breach of promise, compensation must be made. Betrothal not contracted in the canonical form begets no obligation in either the external or the internal forum, that is, in conscience. The aggrieved party must be supposed to know the law.

2. Betrothal begets an obligation of fidelity in both parties and of avoiding sexual familiarities with a third party. The obligation is not more serious for the woman than for the man, and probably is not an obligation of justice but only of fidelity.

3. Canonical betrothal between A and B invalidates betrothal between either party and a third party, but it does not invalidate marriage with a third party, though it renders it sinful.

SECTION 6. Dissolution of Betrothal

1. Betrothal can be rescinded by mutual consent.

2. Betrothal is dissolved when some condition mutually agreed upon which excluded marriage has been verified.

3. Betrothal is dissolved when one party enters the religious life, or the clerical state, or a clerical seminary, or takes a private vow of

chastity or celibacy or of taking Sacred Orders or of entering the religious life.

4. If an impediment arises to marriage after betrothal and cannot be dispensed, or is not usually dispensed, betrothal is dissolved. If the impediment can be dispensed, the party who culpably set up the impediment, if such was the case, is obliged to seek a dispensation to marry the other party, or to accept rescission of the contract if the other party wishes to avoid it. If the impediment is temporary and not culpably created by either party, betrothal is suspended; if culpably created by both parties, betrothal is dissolved; if culpably created by only one party*, that party is obliged to keep the contract when the impediment lapses.

5. If one party to a betrothal marries a third party, the betrothal probably lapses. If marriage is unreasonably deferred by one party, the other party can avoid the contract of betrothal.

6. The departure of one of the betrothed parties to a distant domicile against the wish of the other party, or without informing that party, gives the latter the right to avoid the contract.

7. A notable change in circumstances arising after a betrothal dissolves it, if it would not have been entered upon in such circumstances. Grave suspicion that the future marriage would prove unhappy, or unsuitable, is a reason for rescinding the betrothal, as also is the reasonable opposition of the parents of either of the betrothed. Heavy debts incurred by either party, a serious disease contracted, deformity, destitution, intemperance, are reasons for breaking off an engagement.

SECTION 7. Disclosure of Defects

1. One betrothed party must disclose to the other party any serious secret defect which would render marriage extremely undesirable. If the defect is not harmful, but would render marriage less desirable, it need not be disclosed unless it would lead to future unhappiness.

2. If a fiancee has been guilty of sexual intercourse with a third party, but is not pregnant, nor likely to be so, the fact need not be disclosed to her fiancé. But if she is pregnant by a third party, she would be obliged to disclose the fact to her fiance, unless she would greatly suffer in his esteem, or have to remain unmarried.

Note

According to the Matrimonial Causes Act, 1937, a husband can petition the Court for a decree of nullity of his marriage if the respondent was at the time of marriage pregnant by some person other than the petitioner. This clause is, of course, too general to be accepted by Catholics, for such a marriage might have been a valid one and therefore incapable of being declared null. If, however, a man laid

down as a *conditio sine qua non* that the woman whom he was about to marry was not pregnant by another man, then if she was pregnant, the condition in the case destroys true matrimonial consent, and the marriage could be declared null in the ecclesiastical Courts.

SECTION 8. Mutual Relatione Between the Betrothed

1. Betrothed persons are permitted to exercise the usual manifestations of love customary among good people in their country. They are allowed more than is permitted to persons who have no incention of marrying one another.

2. Such manifestations of honourable mutual love are permitted to the betrothed, for often they are necessary as a preparation for the love which should exist between man and wife. The betrothed may express their love, even if involuntary sensuality results from their legitimate actions. If consent to sexual excitation is rarely given (though, of course, it should not be given at all), their courtship is not a proximate occasion of sin, but is a remote one, and it should be rendered still more remote by determination not to consent. It is not the presence of involuntary sexuality that is sinful, but desire for, or consent to, it or the unnecessary proximate occasions of it. Nevertheless some people are more sexual than others, and they are obliged to exercise more restraint than others. In all cases, when sensuality is likely to be vehement, a more than ordinary reason will be needed to permit its insurgence, and considerable determination not to sin will be necessary. If both a good reason and firm determination are present, movements to sensuality may be permitted and endured like unavoidable extremes of heat and cold if they cannot be repressed.

3. The betrothed are not entitled to use the privileges of the married even during the last days of courtship before marriage. If they fall into sin frequently, they must employ the means of overcoming their frailty, such as prayer, fréquentation of the Sacraments, avoidance of too passionate embraces, and dalliance with wrong thoughts and desires, determination not to sin, and the practice of chastity in thought, modesty and self-control.

CHAPTER X

PREPARATION FOR MARRIAGE

The words of Pope Pius XI will serve as the best instruction for those who are about to marry, or are thinking of choosing a partner *[Encyclical Letter on Christian Marriage):*

"To the proximate preparation of a good married life belongs very specially the care in choosing a partner; on that depentls a great deal whether the forthcoming marriage will be happy or not, since one may be to the other a great help in leading the Christian life, or a great danger and hindrance. And so, that they may not deplore for the rest of their lives the sorrows arising from an indiscreet marriage, those about to enter into tvedlock should carefully deliberate in choosing the person with whom henceforth they must live continuously. They should, in so deliberating, keep before their minds the thought, first of God and of the true religion of Christ, then of themselves, of their partner, of the children to come, as also of human and civil society, for which wedlock is a fountain head. Let them diligently pray for divine help, so that they make their choice in accordance with Christian prudence, not, indeed, led by the blind and unrestrained impulse of lust, nor by any desire of riches or other base influence, but by a true and noble love, and by a sincere affection for the future partner, and let them strive in their married life for those ends for which the state was constituted by God. Lastly, let them not omit to ask the prudent advice of their parents with regard to the partner, and let them regard this advice in no light manner, in order that by their parents' mature knowledge and experience of human affairs they may guard against a disastrous choice, and on the threshold of matrimony may receive more abundantly the divine blessing of the fourth Commandment: 'Honour thy father and thy mother (which is the first Commandment -with a promise), that it may be well with thee and thou mayest be long-lived upon the earth.' (Ephes, vi. 2, 3; Exod. xx. 12)."

CHAPTER XI

PRELIMINARIES TO MARRIAGE
(c. 1019)

SECTION 1. Freedom to Marry

1. Before all else it must be ascertained whether or not persons who wish to marry are free to do so; they are not free if any law, Natural, divine positive or, for baptized persons, ecclesiastical, precludes the validity or liceity of their marriage.

2. Freedom to marry can normally be established by reference to recent baptismal certificates, questioning the parties themselves and persons well acquainted with them, and the publication of banns. Even when two persons are free to marry one another after a marriage

with another has proved to have been null, or has been dissolved, they may not contract a fresh marriage until their former one has been authoritatively declared to have been null (c. 1069, §2). Before proceeding to marry persons who have obtained a civil divorce from a union that had been canonically null, the priest should insist on seeing the civil certificate of divorce, and sending it or its number to the Ordinary.

3. In a case of danger of death, when nothing better can be got than the affirmation under oath of the parties that they are baptized and that no impediment intervenes to prevent their marriage from being both licit and valid, that is sufficient.

4. When a certificate of Baptism cannot be got, it is sufficient proof of Baptism if one trustworthy witness testifies to it, or if the party in question testifies on oath, provided that Baptism had been received in adult age, and that the interests of a third party are not prejudiced (c. 779)? that is, if the Baptism of one person does not adversely affect the rights of another person. Other proofs may be accepted, as a certificate of Confirmation, or of First Holy Communion. When a baptismal certificate is issued, it should be recent and bear the signature of the parish priest and the impression of the parish seal. A small fee may be asked for if such is customary. Some authors require a baptismal certificate of the non-Catholic in the case of a mixed marriage, but it is not exacted in this country.

5. A certificate of Confirmation is not exacted, but a Catholic, if not already confirmed, should receive the Sacrament before marriage, if possible without grave inconvenience (c. 1021, §2).

SECTION 2. The Form of Prenuptial Inquiry

In accordance with an Instruction of the Sacred Congregation of the Sacraments (June 29, 1941) the following form has been adopted for England and Wales.

Diocese of . . . . Marriage of N.N. of this diocese and N.N. of diocese.....

Each party to the proposed marriage is to be asked the following questions:

1. Surname, Christian names, Father's name, Mother's maiden name.
2. Profession, religion, places and dates of birth, Baptism, Confirmation, proposed marriage.
3. Have you ever contracted or attempted a religious or a civil marriage? With whom? Place and date . . . How was it dissolved and when?
4. What is your present address? How long have you lived there? Previous addresses of six months' duration since the age of puberty.

5. Is there any impediment to the proposed marriage? Are you entering marriage freely and of your own accord?

6. If a minor, have you the consent of your parents?

7. Are you sufficiently instructed in Christian doctrine? Do you understand the chief ends, the rights and the obligations of marriage?

8. Do you both intend to contract marriage in accordance with the teaching of the Catholic Church?

9. Do you both intend to contract marriage without any reservations or conditions to your consent?

For each party*: I hereby solemnly declare that the above answers are true . .. Signature.....

For the priest: Signed before me this day of... . 19....

This form must be filled in by the parish priest concerning each person living in his parish, who wishes to be married. The form is to be kept in the parish archives.

10. *Litters testimoniales* and *Nihil obstat.*

By virtue of faculties granted by Pope Pius XII, the Sacred Congregation of the Sacraments has dispensed from that part of the Instruction which deals with *Litters testimoniales* and *Nihil obstat,* when both parties live in England and Wales (S.C. de Sacr., Nov. 6, Ï947)·

When one or both of the parties do not live in England and Wales, the following procedure must be adopted:

( ) If the wedding is to take place outside the diocese:

The form headed *Litters testimoniales . . . Nihil obstat* must be filled in by the parish priest from the particulars he has already obtained at the prenuptial inquiry from anyone living in his parish. This must be sent with all other documents and certificates to the Chancellor for the *Litters testimoniales.* On their return, they must be sent to the parish priest who is to assist at the wedding, who then sends them to his curia for the *Nihil obstat* before proceeding with the marriage.

( ) If the wedding is to take place in the diocese:

The parish priest on receiving the *Litters testimoniales* from the other parish priest(s), sends them to the Chancellor for the *Nihil obstat* before proceeding with the marriage.

CHAPTER XII

THE BANNS
(cc. 1022-1026)

SECTION 1. The. Obligation of the Banns

I. Banns are public notifications of intended marriages. It is the duty of the parish priest of the parties who intend to marry one another to publish the banns. If the parties have domiciles or quasi-domiciles in different parishes, the banns are to be published in each parish. The banns of those who have no fixed residence *{vagi),* or only a month's residence, and of those who have only a diocesan domicile or quasi-domicile, are published in the place where the parties are staying. Banns of minors are published in the parish of their parents or guardians, and also in the place where the minor has a quasi-domicile, if such be the case. For soldiers, the banns are published in their garrison towns, or in the parish where their huts are situated, and also where, before mobilization, they resided. The parish priest may receive an offering for publishing the banns if custom or the local Ordinary approve.

2. If a party to be married had resided for six months in places other than his or her present parish after the age of puberty (m. 14, f. 12), the parish priest must refer the case to the Ordinary, who will prudently either order the banns to be published in those places, or prescribe other methods of proofs or presumptions as to freedom to marry (P.C.C.J., June 3, 1918). If there is any suspicion of an impediment contracted by a shorter stay than six months, the parish priest must refer the case to the Ordinary, who shall not permit the marriage until the suspicion is allayed. If such place is far distant, the Ordinary may demand other proofs, such as an affidavit under oath by the parties.

SECTION 2. Method of Publication

i. The banns must be called on each of three successive Sundays, or holy days of obligation, in the church during Mass, preferably the last Mass, or during other divine services when the people attend in good numbers. Omission of all the banns apart from dispensation is a grave sin; omission of one publication is venial. The law of banns refers to public marriage, not to secretly convalidated ones, nor to those contracted in emergencies.

2. The banns of mixed marriages may not be published unless the local Ordinary prudently, and to the exclusion of scandal, thinks fit to allow them, always provided that dispensation had been got and no mention is made of the religion of the non-Catholic party.

3. Instead of oral publication of banns, the Ordinary may have notices of marriages posted up at the church doors during a space of at least eight days, which must include two days on which Mass must be heard by the faithful.

SECTION 3. Obligation of Revealing Impediments

1. The faithful are obliged to reveal any impediment which they know before the celebration of a marriage.

2. This obligation is serious and must be fulfilled even if impediments are known as natural secrets, or if a promise had been made not to reveal them, not, however, if they were known only through professional consultation, as in cases of doctors, nurses, solicitors, public officials, nor, of course, if known under the seal of confession. The obligation also ceases if an impediment cannot be revealed without grave spiritual harm to oneself or another, or if public harm of considerable moment would ensue, or if a third party would innocently suffer from disclosure, or if revelation would be of no avail, or if an invalid marriage could be prevented otherwise.

SECTION 4. Dispensation from Banns

1. The local Ordinary of the parties to be married can dispense from banns even in a diocese not his own, for a just and prudent reason. This power can be delegated. The just reason is necessary for valid dispensation.

2. In applying for dispensation from banns, reasons such as the following may be suggested, namely, danger of the marriage being maliciously prevented, that one party is likely to break off the engagement, scandal, incontinency, temporal loss, shame, the importance of secrecy, need of a hasty marriage.

3. It is reasonable that the parties who are to be married should make a small pecuniary offering to the Bishop's chancery, unless they are poor.

SECTION 5. Conclusion of Banns

I. A priest may not proceed to celebrate a marriage before he has got the necessary documents, namely, the Baptism certificate (unless the parties were Baptized in his parish), guarantee that the banns have been called elsewhere if that was necessary, dispensation, if one had

to be got, delegation if necessary, the civil license to marry, a certificate of the death of a former consort, if such was the case, a copy of a declaration of nullity, or of papal dispensation from an unconsummated marriage, or permission to use the Pauline privilege, if such were the case. In the event of convalidation of a civil marriage, the marriage certificate or its number must be produced, and at least its number sent to the Ordinary, to preclude the danger of bigamy.

2. Three days from the last publication of banns must have elapsed before the marriage, unless a reasonable cause excuses. The banns are repeated if marriage had not taken place within six months from the publication of banns, unless the Ordinary judges otherwise.

SECTION 6. Doubts Arising about Matrimonial Impediments

1. When the parish priest or delegate has a doubt as to the freedom of parties to marry, his procedure must be as follows:

(a) He must make careful inquiries into the case as to the freedom to marry, question at least two trustworthy witnesses under oath if the impediment is not defamatory such as crime, question the parties themselves and secure evidence in other reasonable ways.

(ά) If the doubt arose before the banns were called, he must publish them; if it arose after the first or the second publication, he must conclude them.

(c) If the doubt still persists after publication, he may not proceed to celebrate the marriage without consulting the Ordinary.

2. When an impediment has certainly been discovered, his procedure is as follows:

(a) If the impediment is occult, as vow, the banns must be published or concluded, and the case referred to the local Ordinary or the Sacred Penitentiary without mention of the names for dispensation if it can be given.

(Z›) If the impediment is public and has become known to the parish priest before publication of banns, he may not proceed to publish them until dispensation has been obtained for the external forum, even if one had already been obtained for the internal forum; if the impediment becomes known to him after the first or the second publication, he must conclude the banns and refer the case to the local Ordinary.

3. If no impediment has been discovered, nor suspicion of one has arisen, he must proceed to celebrate the marriage after the banns have been published.

Pastoral Notes

i. If an impediment becomes known from confession, the knowledge may not be used outside confession without express permission of the

penitent, not even if the confessor has to celebrate an invalid marriage. He should induce the penitent to make known the impediment outside confession.

2. If a confessor learns of an occult impediment from one of the parties to be married who is ignorant of it, and if he fears that nothing that he can say will influence the party to defer the marriage, or if the marriage cannot be deferred without grave scandal, he may leave the penitent in good faith. But a confessor has extensive powers of dispensing from occult cases and should use them if he can. If he cannot use them he should apply to the Ordinary. But no use of confessional knowledge is permissible in the case.

3. If a priest learns of an occult impediment not from confession, but owing to his professional relations with the person concerned, if he cannot influence the person to defer the marriage, he need not disturb his good faith. But a dispensation should be got after the marriage if possible.

4. If a priest learns of an impediment, but neither from confession nor owing to his professional relations with the person concerned, nor with anyone else, he must warn the said person and get evidence of the impediment from other sources. But if the impediment cannot be proved in the external forum, he must refer the case to the Ordinary who is entided to forbid the marriage for the time being (c. 1039).

5. A parish priest may not, without consulting the Ordinary, assist except in an urgent case, at the marriage of a person who has no canonical residence anywhere though he may have a month's residence in the parish.

6. A parish priest must instruct parties who are to be married, in accordance with circumstances, on the sanctity of marriage. Catholics have no illusions about divorce, but some do not appreciate the sacramental character of marriage, nor the graces which it bestows. Furthermore, as so many non-Catholics have been confirmed in the false conviction that birth control, under certain circumstances, may not be wrong for married people, Catholics may be warned—especially those who contract a mixed marriage with dispensation—that the Sacraments cannot be given to those who practise that vice. Catholics about to marry should be exhorted to go to confession and Holy Communion beforehand, and if possible, receive the Sacrament of Confirmation if they have not been confirmed.

7. Minors must be seriously warned by the parish priest not to marry without the knowledge, or against the reasonable wishes, of their parents (c. 1034). If, however, these young people will not heed the warning, the local Ordinary must be consulted about the case. Though marriage contracted by minors against the reasonable wishes of their parents is not for that reason invalid, it may be a grievous sin. On the other hand, parents should not be opposed to giving their sons and daughters reasonable opportunities of choosing good partners for marriage. Unreasonable opposition drives children to secret marriages and sometimes to invalid ones.

CHAPTER XIII

MATRIMONIAL IMPEDIMENTS IN GENERAL
(cc. 1035-1041)

SECTION 1. Nature of Impediments

1. An impediment to marriage is a circumstance which establishes the incapacity between two persons of legally marrying one another. Thus Natural law forbids father and daughter to marry one another: divine positive law forbids a married man to divorce his wife and remarry during her lifetime; ecclesiastical law forbids the marriage of first cousins; civil law can forbid unbaptized persons to marry one another owing, for example, to want of age.

2. An impediment may be permanent, as absolute impotence, or temporaiy, as nonage.

SECTION 2. Kinds of Impediment

1. An impediment may be derived from Natural law, divine positive law, ecclesiastical law, or civil law.

2. An impediment is diriment if it renders an attempted contract of marriage both gravely sinful and void. It is prohibitory if it renders marriage gravely sinful, though not affecting its validity.

3. An impediment is absolute, if it affects a given person relatively to all other persons; it is relative, if it affects a given person relatively only to some but not to all persons.

4. An impediment is public if it can be proved in the external forum by witnesses, or a public document, or a public fact. It is occult by nature and in fact if it cannot be proved. It is occult in fact but public by nature if it is occult in some place but can be proved in the external forum in some other place.

5. An impediment is certain, if its existence cannot be prudently doubted. A doubt may be one of law, inasmuch as the law itself is doubtful, either in point of application or existence; a doubt of fact exists if the fact of the impediment is in doubt.

6. Some impediments are correlative when each of two parties is

the source of it, as consanguinity'; others are not correlative when only one of two parties is the source of it, as vow.

SECTION 3. Ignorance of an Impediment

1. Ignorance of the existence of an impediment in some particular case does not excuse a person from being subject to it. No ignorance of annulling or disqualifying laws serves as exemption from them unless the contrary is stated (c. 16, §1). No matrimonial impediment has been expressly excepted from this rule of law, not even if ignorance of it is general and invincible (S.O., March 11, 1868, to the Vicar Apostolic of Japan; cf. Gasparri, *de Matrim.,* nn. 259, 260, 266).

2. If the ignorance of an impediment existing in a particular case is not culpable, no sin is committed by attempting to contract a marriage which is barred by the impediment.

SECTION 4. Cessation of Impediment

1. Dispensation from an impediment removes it in the case of those to whom dispensation is granted.

2. A question arises as to whether an impediment ceases in the impossibility of obtaining a dispensation, when dispensation could be granted. The following conclusions may be adopted (cf. Gasparri, *op. cit.,* nn. 260, 595).

( ) If a marriage is not urgently necessary, the impediment does not cease.

( ) If the gravest inconvenience and harm to a community of Catholics living, for example, amongst pagans, would arise if certain marriages were rendered impossible or sinful for lack of dispensation, when, for instance, recourse to legitimate authority is practically impossible, then if the dispensations would normally be granted, the ecclesiastical prohibitory impediments cease.

(c) If grave spiritual harm would ensue in a particular case for lack of dispensation, an ecclesiastical prohibitory impediment ceases. The same may probably be said of ecclesiastical diriment impediments.

(d) If marriage had already been contracted in good faith, but was barred by a diriment impediment which could be, and usually is, dispensed, the impediment probably ceases in very grave inconvenience to the person concerned, at least in conscience. But a dispensation should be sought as soon as possible *ad cautelam.*

3. Besides the Roman Pontiff, no one can abrogate or derogate from any ecclesiastical impediment.

4. Custom that attempts to introduce a new impediment or that is contrary to an existing one is reprobated.

CHAPTER XIV

DOUBTFUL IMPEDIMENTS
(cc. 15, 1068, 1076, §3)

SECTION 1. Resolution of Doubt

i. When an impediment to a marriage is suspected to exist, the doubt may be resolved in the internal forum of conscience by the confession of the party or parties to the marriage.

2. In the extra-sacramental forum, the doubt may be resolved by the avowal of one or of both of the parties, or by the testimony of at least two witnesses, or by documentary evidence, or any other method approved by law.

3. In the external forum, the doubt may be resolved by the avowal of the parties, by proofs submitted by witnesses, by the evidence of expert testimony, by public or private documentary evidence, by oath, or by presumptions. All such proofs are regulated by the canons.

SECTION 2. Procedure in Case of Doubtful Impediments

1. When the doubt concerns the ecclesiastical law as to the impediment, the latter is regarded as non-existent (c. 15). But a parish priest should not decide the case without consulting the Ordinary.

2. If the doubt concerns a fact, as, v.g., whether or not two parties who wish to marry one another are related in the third or fourth degree of consanguinity, the impediment is regarded as existing, but the Ordinary can dispense whenever the Roman Pontiff is accustomed to dispense in the case (c. 15).

3. If the doubt concerns both the law and a fact, the impediment is regarded as non-existent.

4. If the doubt concerns divine law, as, for example, if it is doubted whether brother and sister may marry one another, there is no difficulty in the resolution of the doubt in the case of Christians, for the canonical impediment between brother and sister is certain (c. 1076, § 3). But in the case of the unbaptized, if brother and sister had married one another, since their marriage is not certainly contrary to the law of nature, it cannot be regarded as invalid unless the law of the place makes it so, and so long as the parties remain unbaptized, the Church cannot deal with the case.

5. If the doubt concerns the law in regard to the impediment of

impotence, namely, whether or not a given defect (organic or functional) constitutes a natural impotence, marriage is not to be prevented. If the doubt concerns the fact of impotence, marriage is not to be prevented.

6. If the doubt concerns the fact of consanguinity in the direct line, or in the first degree of the collateral line (brother and sister), or the fact of an existing bond, marriage is not permitted so long as the doubt

7. When marriage has been contracted in doubt as to the existence of a diriment impediment, it is the serious duty of the parties to discover if the impediment really existed.

CHAPTER XV

THE ACTUAL IMPEDIMENTS IN SUMMARY

SECTION 1. The Diriment Impediments

The diriment impediments to marriage are nonage, impotence, an existing bond, difference of worship, Sacred Orders, solemn religious vow, abduction, crime, consanguinity and affinity within certain limits, public propriety, spiritual relationship, legal adoption in accordance with civil law. A simple religious vow of chastity is diriment if established as such for particular classes of persons, as in the Society of Jesus.

SECTION 2. Defect of Consent

Defect of canonical consent due to substantial mistake, servile condition, or grave fear, invalidates marriage, though not classed as an impediment.

SECTION 3. Defect of Form

Defect of canonical form in the case of those who are obliged to observe it is an obstacle to valid marriage. Such attempted marriage is termed clandestine.

SECTION 4. Prohibitory Impediments

The prohibitory impediments are the simple vows of virginity, perfect chastity, celibacy, reception of Sacred Orders, entrance into

the religious state, and of mixed religion. Marriage is also forbidden with an apostate, a notorious sinner, or an excommunicate.

SECTION 5. Prohibitions

Particular marriages may be forbidden explicitly by the Pope or local Ordinary; marriage with solemnization in closed times is forbidden.

SECTION 6. Minor and Major Impediments

1. Impediments of minor degree are consanguinity in the third collateral degree, affinity in the second collateral degree, public propriety in the second degree, spiritual relationship, crime arising from adultery with either promise of marriage or attempted marriage even in civil form.
2. All the other impediments are of major degree.

SECTION 7. Retroactive Force of the Canons

Where changes have been made in the Code of Canon law, either by the abolition of certain impediments, or by a change in their character or extension, the law is not retroactive, so that all marriages contracted before its publication (May 19, 1918) continue to be ruled by the law previously in force (c. 10). Thus a marriage contracted by persons in the fourth degree of collateral consanguinity without dispensation was formerly invalid and remained so after the Code had abolished that impediment. But to rectify such invalid marriages after May 19, 1918, there was no need of any dispensation (P.C.C.J., June 3, 1918).

CHAPTER XVI

THE PROHIBITORY IMPEDIMENTS
(cc. 1058-1066)

SECTION 1. The Impediments of Vow

I. The vow of virginity is a vow to abstain from the first complete deliberate violation of physical virginity, whether solitary or in sexual intercourse, in or outside marriage. If a person under such a vow contracted marriage normally a grave sin would have been committed, for the intention would be to violate the vow by consummating marriage. After virginity has been lost, marriage dues may be given

and asked for. If both parties to a marriage had taken the vow before marrying, and agreed with mutual consent to remain continent, the marriage would be valid and licit. One who had married, though under this vow, could not ask for marital dues before virginity was lost, but if asked, would be obliged to render them.

2. The vow of perfect chastity excludes all deliberate sexual pleasure, incomplete as well as complete, and even the ordinarily licit relations in married life, when a person subject to the vow contracts marriage. To contract marriage while under this vow would normally be a grave sin, because there would be an intention of consummating marriage. After marriage, the person under the vow may not ask for marital dues, but must give them when asked. If the person who took the vow survives the partner, the vow revives.

3. The vow of celibacy is a vow not to marry. Marriage is a grave violation of the vow. When marriage is contracted the vow ceases. Therefore the person who took the vow may then ask for and give marital dues. On the death of the partner of one who took the vow, it rerives if it was taken absolutely and as a permanent obligation.

4. The vow of receiving Sacred Orders excludes marriage, for observance of the vow after marrying is impossible. If, in fact, marriage has been contracted by one under the vow, he may ask for and give marital dues, for this is not contrary' to the vow, but the vow is not extinguished. It revives after the death of the partner.

5. The vow of entering a religious Institute excludes marriage. By marrying, the person under this vow commits a grave sin. After marrying, the said person may ask for and give marital dues, for this is not contrary to the vow. The vow revives after the death of the partner.

SECTION 2. The Impediment of Legal Adoption

Legal adoption is an impediment to marriage in accordance with the civil law of the place where the parties live. It is either diriment or prohibitory in Canon Law in accordance with the *lex loci,* but its force is wholly derived from Canon Law; the civil law merely affords a condition for the establishment of the ecclesiastical impediment.

SECTION 3. The Impediment of Mixed Religion

1. This impediment exists between a baptized Catholic or one converted to Catholicism, and a baptized non-Catholic. A person is said to be a baptized non-Catholic who was baptized in a non-Catholic religion and aggregated to it.

2. The impediment is always ecclesiastical, but it may also be of divine law when, for example, there is danger of the perversion of

the Catholic party, and (or) of the non-Catholic Baptism or education of future children of the marriage.

3. The Church does not grant dispensation from this impediment except under the following conditions, namely, that there is a just reason for the marriage, that the non-Catholic party has given a guarantee not to endanger the faith of the Catholic partner, that both parties have agreed to have all the future children of the marriage baptized and educated as Catholics, that there is a good certainty that the promises will be faithfully fulfilled. This certainty is not absolute moral certainty, for such cannot usually be obtained, but it must be a degree of certitude which excludes contrary reasonable doubt. The Catholic party must promise to try prudently to convert the other party.

4. As to the promises, in general these must be obtained in writing, but verbal promises may be accepted and even an implicit promise suffices (S.O., May 10, 1941). A dispensation given without any promise or guarantee would be invalid (S.O., Jan. 14, 1932). The promises do not extend to the children, if any, already born to the union, but parents are obliged by divine law—and they must be reminded of this obligation—to bring up such children in the Catholic faith, and of course have them baptized as Catholics, unless they have already been validly baptized outside the Catholic Church (S.O., Jan. 16, 1942).

5. Catholics may not go through any marriage ceremony in a non-Catholic church in presence of a non-Catholic minister acting as such, whether before or after the celebration of their marriage in the Catholic Church, not even if they have obtained a dispensation from the impediment of mixed religion or difference of worship, nor may they go through a civil ceremony unless, of course, this is prescribed by law. If the parish priest knows that such a marriage will be celebrated in a non-Catholic church, he may not assist at it in the Catholic church, except for the gravest reason, and then only ifthere is no scandal and the local Ordinary had been consulted.

6. A Catholic who has attempted marriage in a non-Catholic church or the register office may, indeed, be absolved if in proper dispositions (which include a promise to get the marriage rectified, and not to act as married for the time being), but cannot be allowed to receive the Sacraments publicly until the marriage has been rectified. In the first case, the absolution from excommunication (c. 2319^1) is valid only for the internal forum; absolution is needed in the external forum. But where a civil marriage has to precede legally the canonical marriage, Catholics are instructed to regard the civil ceremony as no marriage.

7. A Catholic who knowingly contracted a mixed marriage without

dispensation is excluded from legitimate ecclesiastical acts, the most noteworthy of which are sponsorship in Baptism and Confirmation. Though such a marriage is valid (if it was canonical), dispensation must be sought.

8. The duty of deterring Catholics from contracting mixed marriages may be fulfilled by occasional warnings in sermons, and by a specific annual sermon on the matter. If pastors cannot deter the faithful from contracting such marriages, they must make serious endeavours to prevent their people from contracting them in ways contrary to the law's of G and the Church.

9. The pastor must see that the promises which were made on the occasion of a mixed marriage are faithfully kept, so far, that is, as he is able to do so. He will therefore visit the married parties, inquire a ut the Catholic education of the children and the practice of the Catholic religion by the Catholic party. If the married parties go to another parish, their parish priest should be apprised of the facts.

10. The priest who assists at a mixed marriage may not now assist passively only, but must put the questions of the ritual as in Catholic marriages. But all customary sacred ceremonies must be omitted, unless the local Ordinary approves of some of the ceremonies being used lest great evil ensue from their total omission. Mass may never be celebrated which has any relation to the marriage (P.C.C.J., Nov. io, 1925; March 10, 1928).

SECTION 4. Marriage with an Apostate

The faithful are to be seriously warned not to contract marriage with one who has become a notorious apostate though without having become aggregated to a sect, or with a member of a condemned society. The priest may not assist at such marriages without consulting the local Ordinary, who may allow him to do so for an urgent reason, if he judges that suitable measures will be taken for the Catholic Baptism and Catholic education of the children of the marriage, and the removal from the Catholic party of all danger of perversion.

SECTION 5. Marriage with a Notorious Sinner or Excommunicate

A priest may not assist at a marriage between a Catholic and one of the aforesaid until the latter has reformed and received absolution, except for an urgent reason and, if possible, after consulting the local Ordinary.

THE DIRIMENT IMPEDIMENTS

CHAPTER XVII

THE DIRIMENT IMPEDIMENTS
(cc. 1067-1080)

SECTION 1. The Impediment of Age

1. Valid marriage cannot be contracted without dispensation by a male under sixteen years of age, or by a female under fourteen years of age. These ages are completed on the first moment of the day after the sixteenth and fourteenth birthdays respectively. If marriage had been contracted by the baptized under those ages, it does not automatically become valid when the parties have reached the proper ages. If a baptized person of the canonical age married an unbaptized person under the canonical age, the validity of the marriage would not be affected, given sufficient discretion in the unbaptized.

2. But pastors are to urge young persons, even of canonical ages, not to marry before the ages at which marriage is usually contracted in their countries.

3. Parents can forbid the banns of their minor children, but if the latter contract marriage, it will not be invalid owing merely to parents' dissent. The civil Courts sometimes set aside marriages of young persons, on the ground of want of discretion, but such marriages may have been valid.

SECTION 2. The Impediment of Impotence

1. Impotence is incapacity for sexual intercourse. It is not sterility, which is incapacity to generate offspring.

2. Impotence is a natural diriment impediment if it is antecedent to marriage and permanent, whether on the part of the man or the woman, whether known to the partner of the impotent person or not, whether absolute or relative.

3. If the impotence of an individual is doubtful, whether the doubt is a doubt of law or of fact, that person is not precluded from marriage.

4. Sterility is neither a diriment nor a prohibitory impediment, but if one person to a marriage knows that he or she is sterile, that fact must be revealed to the other party to the marriage.

5. Temporary impotence, that is, such as disappears in time, or can be remedied by natural, licit means without risking life, is not an impediment.

6. The view of impotence adopted by nearly all authors and in the pleading before the Rota is that it consists on the part of the male, in the incapacity of having normal intercourse accompanied with semination of true seed; in the female, it consists in the absence of the normal organ suitable for natural intercourse. Absence of womb, ovaries and fallopian tubes singly, or in combination, or all together, probably does not constitute impotence.

7. If impotence supervenes on a valid marriage, marital relations are permitted to the married parties. If full intercourse is possible it is permissible.

8. Since in the common view true semination is essential to potency, a castrated male is impotent. It is not certain that a vasectomized male is impotent, because it is not certain that the condition is incurable. But if the condition is incurable, it constitutes impotence (Rota, *Deris, passim,* especially Oct. 25, 1945).

9. It is to be observed that a man who is impotent functionally may be able to procreate without marital intercourse by employing some artificial method of insemination; the existence of offspring is not a peremptory proof of either potency to marry or of true consummation of marriage, since offspring may issue from insemination.

10. A wife who, after marriage, discovers her temporary and curable relative impotence is obliged to undergo a licit operation if it is not dangerous or abhorrent to her, unless she wishes to petition for nullity. She cannot oblige her husband to remain celibate. A husband is under a similar obligation.

11. No true human hermaphrodite has ever existed, so far as reliable evidence goes. If, however, a person appears to be an hermaphrodite because he or she has some external organs peculiar to each sex, the case must be referred to the Ordinary who would doubtless seek medical opinion and permit the person to marry, if it were possible for such a one to exercise the sexual functions of one sex adequately.

SECTION 3. The Impediment of an Existing Bond

1. One who has a consort living is incapable of contracting a fresh marriage unless the former marriage had been dissolved by either application of the Pauline privilege or papal authority. The Pauline privilege extends only to marriages contracted by the unbaptized, but under definite conditions as explained later; papal authority extends to any marriage validly contracted by the baptized, or by one person baptized with one not baptized, provided that in the first case the marriage had not been consummated.

2. Dissolution of the matrimonial bond is not the same as a decree of nullity; in the latter case, the marriage has been null from its inception and is declared so by competent authority.

3. That the existing bond is a diriment impediment to a fresh marriage is clear from Our Lord's words in Holy Scripture and from the unvarying teaching of the Church (Mt. 5. 32; Mk. 10. 11; Luke 16. 18; I Cor. 7. 10, 11).

SECTION 4. The Impediment of Difference of Worship

1. Marriage is null if attempted by one not baptized with one either baptized in the Catholic Church or converted to the faith from heresy or schism.

2. To be baptized in the Catholic Church is to be aggregated to it by Baptism. The condition is verified in the following cases:

(û) An adult (one over seven years of age) who wishes to receive and does receive Catholic Baptism and is baptized by anyone at all, even by a lay person, or a non-Catholic minister.

(A) A child committed by its parent, parents, deputy, or guardian, to a Catholic priest to receive Baptism.

(c) A child baptized in danger of death by anyone, the parents or their equivalent intending the child to be aggregated to the Catholic faith.

(d) A child born of Catholic parents or parent and baptized by a non-Catholic minister by mistake, fraud, or deceit, the parents or parent intending the child to be baptized by a Catholic priest.

(*) A child of pagan parents baptized in danger of death by a Catholic.

(/) A child baptized lawfully outside the danger of death by a Catholic. It is lawfully baptized if there is a reasonable hope that the child will be brought up a Catholic, that at least one of the parents, or a guardian, consents to the Baptism, or failing that, no parent or guardian exists, or if either does exist, that he (she) has lost the right over the child or cannot exercise it.

(g) A child unlawfully baptized by a Catholic but brought up in the Catholic faith.

(A) A child in danger of death, born of heretics or schismatics, baptized by a Catholic at the request of the parents, though they intend the child to be aggregated to their own sect.

(i) A child of apostate parents baptized by a Catholic priest at their request, though they intended the child to be regarded as baptized outside the Catholic Church.

N.B. An infant born of mixed or disparate marriage, baptized by a non-Catholic, is a case that must be referred to the Holy Office; as

also if an infant was baptized contrary to the suppositions in («) and (/) above.

3. If, when marriage was celebrated, one of the parties was generally regarded as baptized, or ii' the Baptism was doubtful, the marriage is upheld until there is clear proof that one party was baptized and the other was not.

SECTION 5. The Impediment of Sacred Orders

1. Clerics in Sacred Orders (subdeacon, deacon, priest) cannot validly contract marriage.

2. A married man whose wife is living cannot lawfully receive Sacred Orders without papal dispensation; if he do so without dispensation, he would be forbidden to exercise his Orders (c. 132, §3).

3. Dispensation to marry is given in cases when one in Sacred Orders proves that he was ordained under duress.

4. Dispensation to marry is now granted only in the rarest cases to a priest.

SECTION 6. The Impediment of Religious Profession

1. Marriage cannot be validly contracted by one who has taken solemn vow's in a religious Institute, nor by one who has taken a simple vow of chastity when, by special prescription of the Holy See, this vow is a diriment impediment to subsequent marriage (Pope Gregory XIII, 1584, made this rule for the Society of Jesus).

2. The religious profession must have been valid; conditions for validity are explained in the treatise on religious vows.

3. The basis of this impediment is the vow of chastity, for vows of poverty and obedience are not, of their nature, obstacles to valid marriage.

SECTION 7. The Impediment of Abduction

1. Abduction is the act of a man or some one in his behalf, who, with a view to marriage, either violently removes a woman from a place where she is at freedom to come and go to a place where she is detained against her will, or violently detains her where she is.

2. Marriage is not possible between abductor and abducted so long as the latter remains in the power of the former. No consent given by the woman in this situation is valid, even if the parties were formally engaged to one another.

3. Abduction can take place from one room to another of the same house, for detention would always be involved.

4. Duress exercised may be physical violence, or violence by deceit

or fraud, exercised by the abductor himself, or by another in his behalf, and is equivalently abduction.

5. Dispensation from this impediment, if granted, is of no avail unless the woman, being still in durance, freely gives her consent. But the impediment ceases so soon as the woman is free. The dispensation is very rarely granted; it could be granted in danger of death for a very good reason.

SECTION 8. The Impediment of Crime

1. This impediment affects those who are accomplices in mutual adultery or murder of a consort. It arises in each of three ways:

(a) By mutual adultery and with either a mutual promise given by the parties to marry one another after the death of a consort of either, or consorts of both, or an attempt to marry one another even civilly whilst the marriage bond of at least one of the parties subsists. These two elements may happen in any order. The adultery must be known as such by both parties when it takes place. The promise to marry must be a true promise to marry when the parties are free to marry one another after the death of the consort or consorts in question. All who, being married, obtain a civil divorce and attempt a second marriage civilly and consummate it become subject to this impediment.

(ά) By mutual adultery and the murder by either party of the consort of either. There is no need for mutual cooperation in, or consent to, the murder. This must have been committed with murderous intent, not in a sudden frenzy of passion. The motive of the murder must have been marriage with the accomplice in adultery. Both the adultery and the murder must have been an offence against one and the same consort. Of course, adultery must have preceded the murder, for it cannot follow it.

(c) By mutual cooperation, physical or moral, even without adultery, in the murder of the consort of either party. The murder must have been committed with the motive of marrying the accomplice, but it is not certain that each party need have had that motive, or have manifested it.

2. If both parties are married, the impediment becomes multiple; so, too, if the consorts of both parties were murdered.

3. Dispensation from the first species of crime is given for a good reason; where murder has constituted the impediment, dispensation would be granted for a very grave reason if the murder was occult; if the murder was public, it is commonly stated that dispensation is not granted. But none of the three species of crime as an impediment is excepted in the case of danger of death.

4. When the Holy See grants a dissolution of a marriage that was

not consummated, or permission to contract a fresh marriage on the presumed death of a former consort, the first species of crime as an impediment is dispensed, but neither of the other two species.

SECTION 9. The Impediment of Consanguinity

1. This impediment exists between certain persons related to one another by carnal descent, either direct or collateral. The relationship is established as well by extra-conjugal as by conjugal generation; natural offspring born out of wedlock are related to one another exactly as are legitimate offspring.

2. Consanguinity is computed both by line and degree. The direct line is that in which those persons are who are progenitors and descendants relatively to one another, as father and daughter. The collateral line is that in which those persons are who are descended from common parents, as brother and sister.

3. The degree of direct consanguinity in which two persons are relatively to one another is determined by the number of generations between the two; thus father and daughter are in the first degree of the direct line. The degree of collateral relationship in which two persons are related to one another is determined by the number of generations, in either line of direct descent if the lines are equal, from their common ancestor progenitor; in the longer line, if the lines of descent from their common progenitor are unequal. This is the canonical method of computing degrees.

Thus in the table:

(a) D and E are each in the second degree of the direct line relatively to A.

(ά) D and E are in the second degree of the collateral line relatively to one another.

(c) B and G are in the first degree of the collateral line relatively to one another.

(d) B and E are in the second degree of the collateral line mixed with, or touching, the first relatively to one another; so, too, are C and D.

4. Another method used for computing degrees is to count the

number of persons in the direct line and omit the first progenitor, or omit one person; thus a man and his granddaughter are in the second degree of the direct line. For computing degrees in the collateral line, as the degree between first cousins, count all the persons in one line of descent up to the common stock and omit the common stock; thus first cousins are in the second degree of collateral consanguinity but if the lines of ascent are unequal, as in the case of uncle and niece, count the persons in the longer line of ascent up to the common stock and omit the common stock. Thus uncle and niece are in the second degree of collateral consanguinity mixed with the first, and therefore the degree is unequal. No notice is here taken of the Roman or English method of determining relationship. The method adopted is the canonical method.

5. Multiple consanguinity must be mentioned in petitions for dispensation if it is an impediment to marriage. Generally, multiple consanguinity as an impediment exists between two persons if they have two common stocks near enough to them to constitute them in a forbidden degree of relationship. The following tables illustrate this relationship.

F

I. In this table, G and H are blood relations in the second degree owing to their common stock B, and are in the third degree owing to their common stock A.

II.

II. In this table, if D married two sisters, B and G, then F and H are doubly related, in the second degree owing to their common stock D, and in the third degree owing to their common stock A.

r;

III. In this table, if B and G, brothers, marry E and F, sisters, then their descendants H and K are doubly related in the third degree owing to the two common stocks A and D.

6. The diriment impediment of consanguinity extends to all relatives in the direct line, whether legitimate or not, and in the collateral line to all relatives in any degree to the third inclusive, but no farther.

7. Dispensations for consanguineous marriages are not regarded with favour, especially for such close relationship as that between uncle and niece (aunt and nephew). The number of petitions for such dispensations is deplored by the Holy See, and very grave reasons are required for the grant of such dispensations (S.C. de Sacr., Aug. 1, 1931).

SECTION 10. The Impediment of Affinity (c. 1077)

1. Affinity is relationship by marriage. It arises from a ratified marriage, even if not consummated (c. 97, §1).

2. As a diriment impediment, it exists between a man and certain blood relations of his wife, and *vice versa.* The blood relations of a husband have no affinity with the blood relations of his wife. This is explained by the phrase, *Affinitas non pant affinitatem.*

3. The impediment extends in the direct line to all ascendants and descendants, so that all these relatives of the wife are debarred from marrying her husband and *vice versa.* In the collateral line, the impediment extends to all blood relations to the second degree inclusive but no farther.

Thus in the table:

if F married G, he has set up affinity as a diriment impediment between himself and all the direct descendants and ascendants of his wife and between himself and his wife's sister, B, and her niece, D. The same affinity is set up between G and the corresponding relations of her husband and to the same extent.

4. Affinity is computed in such wise that the blood relations of a husband are related by affinity to his wife in the same line and degree as they are related by consanguinity to himself, and *vice versa*.

5. Affinity may be multiple. It is so in two cases only:

(a) When the consanguinity from which it arises is multiple.

(/>) By successive marriages with certain blood relations of a deceased consort. Thus in the table:

B, G, D are sisters. If a man married C, and on her death married her sister, D, with dispensation, he has established double affinity with the third sister B and B's daughter F.

6. When dispensation is given to marry a deceased wife's daughter, the rescript contains a clause which precludes marriage between a man and his own daughter. This precaution is expressed by the phrase, *Dummodo copula matris non antecesserit nativitatem filia*.

SECTION 11. The Impediment of Public Propriety

I. This impediment affects two persons who are either invalidly married to one another, or have lived together in public and notorious concubinage. The impediment exists between each of the two parties

and the blood relations of the other in either the first or the second degree of consanguinity in the direct line. Thus in the table:

F has been living with G in either an invalid marriage or public and notorious concubinage. G is the widow of G and has a daughter and a granddaughter, D, E. Marriage is barred between F and either D or E. The same is true for the ascendants of C.

2. A putative marriage, being an invalid one, gives rise to the impediment. But if the marriage was merely a civil one and invalid, the impediment would not arise, prescinding from public and notorious concubinage and from cohabitation after the civil marriage (P.G.G.J., March 12, 1929).

3. The aforesaid concubinage must be a state of life that is permanent. Intermittent concubinage does not give rise to the impediment. When a man and woman are generally thought to be husband and wife, though in fact they are not, that state is not the state of concubinage in this context.

SECTION 12. The Impediment of Spiritual Relationship (c. 1079)

1. This impediment arises from Baptism only and it bars marriage between the baptized person on the one hand and either the baptizer or the godparent on the other. The impediment arises from actual Baptism, not from the ceremonies which may have been supplied after Baptism in danger of death.

2. When Baptism is repeated conditionally, the sponsor who acted at both the Baptisms contracts the impediment, not a sponsor who acted at only one of the Baptisms (c. 763, §2). If the baptizers were different persons, it is not certain that either contracts the impediment.

4. An unbaptized person, if baptizer or sponsor, does not contract the impediment, not even after conversion and Baptism.

5. The sponsor must have acted validly in order to be subject to the impediment. A parent baptizing her or his own child, does not now lose the right of giving or asking for the marriage dues.

SECTION 13. The Impediment of Legal Adoption (c. 1080)

This impediment renders marriage invalid, if the civil law of the country bars marriage between adoptive and adopted. The impediment is, however, one of ecclesiastical law. It is not likely that marriage would take place in this country between adoptive and adopted, for the adoptive must be at least twenty-one years older than the adopted, unless the two are within the legally prohibited degrees of consanguinity, in which case, of course, marriage would be legally void.

CHAPTER XVIII

DISPENSATIONS (cc. 1043-1057)

SECTION 1. Dispensation in General

1. Dispensation is the relaxation of law in particular cases. Dispensation from matrimonial impediments is the relaxation of the law which forbids a marriage that is barred by the impediment. A dispensation can be granted by the legislator, or his successor, or his delegate, or by one empowered to grant it by general law or particular or general induit.

2. Dispensation from an impediment *ante factum* is granted for marriage to be contracted; dispensation from an impediment *post factum* is granted for the rectification of a marriage that was invalid, owing to the presence of the said impediment.

3. Dispensation for the external forum is dispensation from a public impediment. Dispensation for the internal forum is dispensation from an occult impediment, only so far as the impediment affected the conscience. Such dispensation can be granted in the sacramental forum to a penitent, or in the extra-sacramental forum to one who could act as a penitent, but in fact does not do so.

4. When dispensation is granted for the external forum, it is valid also for the internal forum of conscience; when it is granted from an occult impediment in the extra-sacramental forum, it is valid for the external forum, even if later on the impediment becomes public, unless law rules otherwise; if, however, it was granted only in the sacramental forum, a dispensation is also needed in the external forum if the occult impediment became public.

5. Dispensation is granted *in forma gratiosa* if granted directly to

the petitioner; it is granted *in forma commissoria* if its execution is committed to some one in behalf of the petitioner. The Holy See usually grants dispensations *in forma commissoria.* Bishops grant them in either form. A parish priest, a priest assisting at a marriage in exceptional circumstances (c. 1098, §2), and a confessor, grant dispensations, when they can legitimately do so (cc. 1044-1046) *in forma gratiosa.*

6. Dispensations are granted to princes and persons of high rank *in forma nobilium;* to the affluent who do not enjoy civic rank *in forma communi;* to the poor *in forma pauperum.*

SECTION 2. Papa) Power of Dispensation

1. In the case of impediments of divine law, whether Natural or divine absolute positive law, the Pope cannot grant dispensations, as, for example, for marriage between father and daughter, or for the absolutely and permanently impotent to marry, or for marriage by a party to an existing Christian consummated marriage.

2. The Pope cannot dispense from matrimonial consent, the necessary use of reason, substantial mistake, unverified lawful past or present conditions, conditions contrary to the essence of marriage.

3. The Pope can dispense from impediments which are called impediments of conditional divine law, that is, when the human will has entered into the situation, as in vow, oath, betrothal. But this exercise of papal power is not strictly a dispensation from Natural or divine law; it is rather to be viewed as an authoritative declaration of a change in the matter of the obligation, so that the original matter, being changed, the original obligation ceases. Thus in a vow, the circumstances may have so changed as to render its matter entirely different from what it was. The Pope can declare that the matter originally promised to God is no longer matter of the vow. There is some analogy to this in the power of the State to void contracts that prove to be contrary to the common good.

4. During the vacancy of the Apostolic See, certain Congregations can grant dispensations from impediments, for this power is explicitly given to them by papal Constitutions. It is an exercise of delegated power.

5. The Pope can dispense from all merely ecclesiastical impediments, but in the case of some, dispensation is rarely granted, in the case of others, it is never given.

(a) The Pope cannot dispense from those impediments which are the determinations of Natural or of divine positive law.

(ά) The Pope never grants dispensation for marriage between brother and sister, nor for a marriage between a man and woman who

mutually conspired in the murder of the consort of one of them. But in a case of danger of death, even the latter impediment can be dispensed (c. 1043).

(c) The Pope very rarely dispenses from the impediment of the priesthood.

Note.

Besides the Roman Pontiff, no one can dispense from any ecclesiastical impediment, unless such power has been given to him by either general law or special induit of the Holy See.

SECTION 3. The Power of Local Ordinaries to Grant Dispensations

i. Local Ordinaries have ordinary power to grant certain dispensations as follows:

( ) They can grant dispensations from banns, from vows not reserved to the Pope, also in doubt of fact when an impediment is one from which the Roman Pontiff is wont to dispense (c. 15), and with the same proviso, when recourse to the Holy See is difficult and there would be danger of grave harm by delaying (c. 81). But if the Ordinary cannot have recourse to the Holy See, he must have recourse, if easily possible, to a Legate of the Roman Pontiff in the region, if the latter can communicate with the Holy See (P.C.C.J., June 26, 1947).

( ) The power of local Ordinaries in danger of death is as follows: In urgent danger of death on the part of either of two persons who wish to marry, the local Ordinary of the place where the parties are, and the local Ordinary of either or both of the parties, for the sake of quieting the conscience of either or of both parties, or, if the case demands, for the legitimation of offspring, can grant dispensation from the canonical form of marriage, and from each and every impediment of ecclesiastical law, whether public or occult, and even if multiple, with two exceptions. These exceptions are the impediments arising from the priesthood and affinity in the direct line if marriage had been consummated, that is, the marriage which had given rise to affinity, but scandal must be removed, and if dispensation is granted for marriage between a Catholic and a non-Catholic (whether the latter is baptized or not), the customary guarantees must be exacted and given, respecting the free exercise of the religion of the Catholic party, and the Catholic Baptism and education of the future offspring, and the prudent endeavour of the Catholic party to convert the non-Catholic party.

Elucidations

(i) The danger of death need not be certain; a good probability of it suffices.

(ii) The danger may be due to any cause, internal or external, and

the danger is to be estimated in accordance with reasonable presumption. This danger may affect either party, not necessarily that one who is directly affected by the impediment, as in the case of vow.

(iii) Conscience is quieted when sin, or its proximate occasion, defamation, or any other disturbing circumstance is to be removed.

(iv) The offspring to be legitimated may be natural or incestuous; as to adulterine, or sacrilegious offspring, the matter is doubtful; some authors admit such legitimation.

(v) Dispensation can be granted for both the internal and the external forum. If the impediment is public (as known consanguinity) the dispensation is to be given in the external forum, that is, in presence of at least two witnesses, unless the canonical form has also been dispensed, in which case the marriage is entered in the register and the fact of dispensation noted. If the impediment is occult, dispensation is granted in either the sacramental forum, no registration being then made, or in the extra-sacramental forum of conscience, the registration being then made in the secret curial register.

(vi) As stated above, the guarantees must be exacted and given under pain of invalidity of the dispensation (S.O., Jan. 14, 1932), but they need not necessarily be in writing, they may be implicit (S.O., May 10, 1941).

(vii) The local Ordinary is not obliged, even if time permitted, to refer the matter to the Holy See. Since his power is ordinary, he may delegate it even habitually.

(viii) The powers of the Ordinary extend to convalidation of an invalid marriage, but not to retrospective convalidation *(sanatio)*, apart from special induit.

(c) The power of the local Ordinary outside the danger of death.

(i) If an impediment becomes known to the Ordinary when all preparations have been made for a marriage which cannot be deferred without probable danger of serious evil until dispensation could be got from the Holy See, he can grant dispensation from all impediments mentioned above under the same conditions, but apparently not from the canonical form of marriage, though a few authors think he could.

(ii) The clause, when the impediment becomes known, has been declared to mean when the local Ordinary becomes aware of it, even though others had known it beforehand (P.C.G.J., March 1, 1921).

(iii) The clause, when all preparations have been made for a marriage, does not necessarily mean that the parties to be married had already arrived at the church to celebrate their marriage, nor does it express an essential condition. The clause includes all cases in which there would be probable harm or danger of it, if an arranged marriage was deferred until dispensation could be sought and obtained from the Holy See.

(iv) Recourse to the Holy See is made by letter; it need not be made by telephone, telegraph, or in person.

(v) The Ordinary has powers to act even if the parties had concealed the impediment until all preparations had been made.

(vi) The local Ordinary has the same powers for convalidating a marriage when there would be danger in delay, and when there is no time to refer the case to the Holy See. If the case had been so referred and no reply had arrived in time, the Ordinary may use his powers. The danger in question might be that of the Ordinary, as well as of that of the parties.

(vii) Canon 81 allows an Ordinary to dispense in the general law of the Church, if recourse to the Holy See is difficult, and if there would be grave danger in delay, and if the dispensation is one which the Holy See usually grants. But as stated above, recourse must be made, if easily possible, to a Legate of the Roman Pontiff if there is one in the region who can communicate with the Holy See.

2. Local Ordinaries receive special induits granting them fuller powers than those mentioned above for use in times of difficulty and situations of peculiar moment. Such were the faculties given to the hierarchy in England and Wales, in 1939 to 1945, for granting *sanationes in radice*. Other extensive faculties are granted quinquennially.

SECTION 4. The Power of a Parish Priest to Grant Dispensations

1. In urgent danger of death on the part of either of two persons who wish to marry one another, or have their invalid marriage rectified, the powers of a parish priest are the same as those of the local Ordinary, as explained above, but only for cases which cannot be referred to the local Ordinary. Recourse is essential, so that failure to have such recourse would preclude the parish priest from granting dispensations validly. In cases of such danger, recourse would usually be impossible owing to lack of time.

2. Outside the danger of death, when a marriage has been prepared and cannot be deferred, as explained above, the parish priest can dispense exactly as the local Ordinary, but only in occult cases, and when recourse to the Ordinary is not possible, or possible only with the danger of violating a secret. The danger in delay in this case, includes danger to the priest, or the parties or one party. If a dispensation had to be got, but was not got in fact, the impediment becomes occult if those present for the marriage thought that a dispensation had been got.

Elucidations

(a) Recourse to the Ordinary need not be made by telephone, or telegraph (P.G.C.J., Nov. 12, 1922).

(à) The secret in question may regard a case of conscience, or an impediment such as *crimen*.

(c) The occult impediment in question is legally occult if it is occult in fact though public by nature (P.G.C.J., Dec. 28, 1927).

d) The parish priest dispenses from an occult impediment in the extra-sacramental forum, and therefore the dispensation will be inscribed in the secret register of the curia.

(e) The power of the parish priest is ordinary and can be delegated and if he delegates a curate to assist at a deathbed marriage, he delegates him to dispense (cf. c. 200, §1).

(f) The power given by the canons is for occult cases only. If the impediment was public in fact and the case was extremely urgent, recourse being impossible, it is doubtful whether the parish priest could dispense from it. Nevertheless he could assist at the marriage on the ground that the impediment probably ceases to exist, but he must afterwards obtain a dispensation for the sake of ensuring a certainly valid marriage. It is possible for the parties to give mutual consent on condition that a dispensation will be granted, but they would not be man and wife until it had been granted.

(g) The parish priest can use his powers for convalidating a marriage with the same limitations.

SECTION 5. The Power of a Confessor to Grant Dispensations

1. In a case of urgent danger of death, or of a marriage prepared which cannot be deferred without probable danger of grave harm, or of convalidating a marriage, a confessor has the same powers as a parish priest, but only for the internal forum and in the act of sacramental confession. In danger of death, every priest is a legitimate confessor in this context (c. 882). The confessor can use his powers although the confession was null, or if absolution was not given.

2. Since the confessor in these cases dispenses only as confessor, and not in the extra-sacramental forum, when a penitent seeks a dispensation from a public impediment, the confessor should ask the penitent to treat of the case outside confession, for the case could then be dealt with in the extra-sacramental forum, if the confessor is parish priest, or one who is to assist at a marriage in accordance with canon 1098, § 2.

SECTION 6. The Power of a Priest who Assists at a Marriage in Urgent Cases (c. 1098)

It is to be observed that any priest can assist at a marriage and give the dispensations mentioned above, if he w'as summoned by the parties

about to be married when they could not secure the parish priest, or the Ordinary, or a priest delegated by either, in two contingencies namely, when there is danger of death, and outside such danger if the parties could not get any one of the three aforesaid to assist within a month, or if they prudently foresaw that they could not do so.

SECTION 7. Registration of Dispensation

1. The parish priest and the priest who assisted at a marriage as just stated, if they have granted a dispensation for the external forum must at once (within three days) acquaint the local Ordinary with the fact. The marriage and the dispensation are inscribed in the parochial register (c. 1046). If, however, the dispensation had been granted in the tribunal of Penance, no registration of it or of the dispensation is inscribed anywhere. If the occult impediment became public, another dispensation would then be required for the external forum.

2. Unless the Sacred Penitentiary rules otherwise, when a dispensation from an occult impediment in the non-sacramental forum is given the fact must be notified in the secret register of the curial archives. No other dispensation for the external forum is necessary if the occult impediment became public.

The Sacred Penitentiary rules otherwise when it wishes the dispensation to be registered in its own secret register in order that, for some special reason, the Ordinary should not know of it. The parish priest and the assistant priest may also, on occasion, be obliged to keep the matter secret from the Ordinary, so that the marriage and the dispensation would be entered in the secret register of the Sacred Penitentiary.

CHAPTER XIX

THE USE OF DELEGATED POWER OF DISPENSING (cc. 1048-1051; 1055-1057)

i. If a petition for a dispensation has been sought from the Holy See, the local Ordinary may not use his delegated faculties, if he have any, except in grave and urgent cases; if he does use them, he must send word without delay (c. 204, § 2) to the Sacred Congregation which deals with such dispensations.

2. One who has a general induit to dispense from an impediment can dispense from it even if it is multiple, unless the induit states otherwise. One who has a general induit to dispense from several

impediments of different kinds, whether they are diriment or only prohibitory, can dispense from them even if they are public and if they exist in one and the same case. The concession avails for marriages, whether to be contracted or to be convalidated.

3. If, together with a public impediment or impediments from which a minister can dispense in virtue of an induit, there co-exist another impediment, whether occult or public, from which the said minister cannot dispense, petition must be made to the Apostolic See for faculty to dispense from them all. If, however, after the Holy See has granted the faculty, another impediment in the same case is discovered from which the said minister can dispense, then it can be dispensed by him without further recourse.

4. When dispensation from a diriment impediment is granted by ordinary' power, or by power delegated by general induit, not by rescript given for particular cases, there is granted *ipso facto* legitimation of offspring already born or conceived of the union of the parties dispensed, not, however, if the offspring is adulterine or sacrilegious. A rescript given for a particular case legitimates offspring, only if legitimation is specially mentioned in the rescript. If one of the parties dispensed refused to celebrate the marriage after the dispensation granted by ordinary power, or in virtue of a general induit, the offspring already bom has been legitimated.

5. That Ordinary is the proper person to execute a dispensation from a public impediment (the case being entrusted to him by the Holy See) who issued testimonial letters, or who forwarded the petition, even if the parties to be dispensed have quitted their original domicile or quasi-domicile with no intention of returning to it. But he must notify the Ordinary of the place in which the marriage is to be celebrated.

6. A small pecuniary charge may be made for clerical expenses when a dispensation is granted, but not in the case of the poor. No other charge may be made without express permission of the Holy See; if such charge was illegitimately made, the fee must be restored.

7. Those who, being delegated by the Holy See, grant a dispensation, must mention their delegation when they dispense. This condition affects licit action, but not the validity of the dispensation.

CHAPTER XX

IMPLICIT DISPENSATION
(cc. 1052-1054)

I. A dispensation granted from an impediment of consanguinity or affinity in a particular degree is available, though in the petition or the rescript a mistake had been made about an actual degree, provided that the degree actually existing is more remote than that mentioned in the rescript. It is also available, even if another impediment was not disclosed, whether in good or in bad faith, provided that this is one of the same species in an equal or a more remote degree fP.C.C. !.. July 8, 1948).

2. When the Holy See grants a dispensation (i.e. a dissolution) from a ratified non-consummated marriage, or has given permission to contract a fresh marriage on the presumed death of a person's former consort, the dispensation includes a dispensation from the impediment, if it existed, which has arisen from adultery with either a promise to marry or an attempted marriage, not, however, from the other two species of the impediment of crime, both of which include the murder of a consort. This implicit dispensation is not included when the local Ordinary grants the aforesaid dispensation; he will have to grant an explicit dispensation from crime, if, under the circumstances, he is entitled to do so.

CHAPTER XXI

CANONICAL REASONS FOR DISPENSATIONS

i. Canonical reasons for dispensations are those which are usually accepted by the Roman Courts as sufficient. They may be morally good ones, or may reflect dishonour or defamation on the parties seeking dispensation. Causes may be primary or merely contributory. The latter are not by themselves sufficient but add their force to the former.

2. The commoner canonical reasons which may be mentioned in a petition are as follows:

(a) Circumscribed domicile, limited population, distance from a more populous district. This reason is usually valid only for the woman, when marriage with one of equal social condition would be difficult in the situation.

(ά) Advancing age of the woman, which is taken to be twenty-four years complete; this plea should not be urged in the case of a widow.

(c) Lack of means to enable a woman to marry conformably with her social condition.

(d) Legal proceedings pending, or likely to arise, in regard to a woman's property or expectations.

(e) Poverty of a widow who has children to maintain.

(/) Extinction of quarrels or hatred between relatives, and the benefit of peaceful settlements.

(g) Excessive, suspected, or dangerous familiarities, or actual cohabitation between the parties wishing to marry.

(A) Sexual relations or the danger of them, especially with a close relative, or other person subject to an impediment, as also pregnancy, or legitimation of forthcoming offspring.

(:) Defamation of the woman, whether deserved or not, owing to familiarity, real or suspected, with a relative.

(j) Revalidation of an invalid marriage.

(A) The danger of contracting a mixed marriage or of celebrating marriage in presence of a non-Catholic minister or in the register office.

(Z) Danger of grave scandal.

(m) Excellence of merits, such as defence of the faith, or generous alms to the Church, or learning, or conspicuous virtue in the petitioners or their parents.

(n) The necessity or the benefit of perpetuating a noble or a wealthy family.

3. Other reasons which may be mentioned in the petition are: orphanhood, illegitimacy, sickness, deformity, physical defects, loss of female honour by another than the desired husband, desire of a widower to marry for the sake of his children, need of material help, assistance of parents, comfort in advancing years.

4. In petitions for dispensation if morally good reasons are sufficient, dishonourable and defamatory ones should not be added.

CHAPTER XXII

THE PETITION FOR DISPENSATION

SECTION 1. The Actual Petition

I. The parties who wish to marry may make the petition personally or by proxy, unless excommunicated by sentence (c. 2265, § 2). If an Apostolic dispensation is required for the external forum, it is sought

through the Ordinary by the parish priest or his deputy, the parish priest signing the petition. If dispensation is required for the internal forum, it is sought by the confessor or through the Ordinary, without mention of names, or directly from the Sacred Penitentiary, also without mentioning names.

2. The Ordinary in question is the Ordinary of domicile or quasi-domicile of the parties concerned, or the Ordinary of actual residence, if the parties have no fixed residence. The proper Ordinary for dispensation for a mixed marriage is the Ordinary of the Catholic. If an impediment affects only one party, the petition is made to the Ordinary of that party; if the impediment affects both parties, as consanguinity, the petition is made to the Ordinary of the woman if she is a Catholic.

3. A petition, if refused by the Ordinary, may be sent to the Holy See without mention of the refusal. If the Holy See, through a Sacred Congregation, has refused the petition, dispensation cannot be granted by the Ordinary, or another Congregation, without the consent of the former Congregation or Office; if a petition has been refused by a Sacred Congregation or Office, it may be sent again to the same Congregation without mentioning the refusal. If a dispensation has been refused by the Ordinary, petition may not be made to another Ordinary without mention of the refusal, but this prescription does not affect the validity of a dispensation granted by the second Ordinary. If a dispensation has been refused by the Vicar General and afterwards granted by the Ordinary without mention of the refusal it is invalid. Dispensation refused by the Ordinary cannot be validly granted by the Vicar General without consent of the Ordinary.

4. Petitions to the Holy See for dispensations in the external forum must contain the surnames and Christian names of the petitioners, the diocese of their domicile or quasi-domicile, or if without domicile, of actual residence, the religion of the petitioners, if one is not a Catholic, the precise nature of the impediment or impediments, circumstances as to marriage already contracted in good or in bad faith, but not the fact, if a fact, that the union has been consummated, nor that incestuous intercourse has taken place; finally, the social condition of the petitioner, that a tax may be levied on the well-to-do, or not levied on the poor, the tax being levied to defray clerical expenses.

SECTION 2. Mistakes in the Petition

1. An accidental mistake in the petition as to the names or domicile of the petitioner does not invalidate a dispensation granted, if the Ordinary can judge with certainty of the identity of the petitioner.

2. Concealment of facts *{subreptio)* does not invalidate a rescript, if

all was expressed that should be expressed in accordance with the practice of the Courts.

3. In the case of major impediments, if only one primary cause was alleged in the petition and it was false, the dispensation would be null, though the contributory causes were true; if the primary cause was true, though the other causes were false, the dispensation would be valid. Failure to disclose facts in a petition does not invalidate dispensation granted *motu proprio* (c. 45). Misstatements in a petition never invalidate dispensation granted for minor impediments.

4. If an impediment is wrongly stated, the dispensation is null, as also if a remoter degree of relationship instead of the closer one is stated. But the dispensation would be valid if an additional impediment existed of the same kind and equal to, or more remote than, the one mentioned, and it would be valid for dispensing both impediments (P.C.C.J., July 8, 1948).

CHAPTER XXIII

MATRIMONIAL CONSENT
(cc. 1081-1093)

SECTION 1. The Qualities of Matrimonial Consent

1. The legitimate matrimonial consents of two persons, man and woman, who wish to marry one another, mutually manifested, effect the matrimonial contract. It is a consensual contract and needs nothing more than the consent to establish it. This consent cannot be supplied by any other human power.

2. That which is offered and accepted in the contract is the right, permanent and exclusive, to those bodily functions which in the ordinary course of nature are calculated to procreate offspring, that is, the right to sexual intercourse. This right prescinds altogether from fertility.

3. The mutual right given and accepted is permanent, that is, it must be offered and accepted for the duration of the common lives of the partners. It is exclusive, inasmuch as it excludes all sexual relations with a third party.

4. The consent must be sincere, free, mutual, legitimately expressed externally, and itself legitimate. The two consents need not be simultaneous; moral union is sufficient, such as would suffice for any contract.

SECTION 2. The Obstacles to True Consent

I. True consent is impossible without the use of reason.

2. Ignorance of what marriage means is obviously an obstacle to consent, for one cannot give consent to what is unknown. The canons state the minimum amount of knowledge necessary: "that matrimonial consent may exist, it is necessary that the contracting parties should not be ignorant of the fact that marriage is, at the least, a permanent association between man and woman for the procreation of children". Of the many views expressed by theologians on the matter, that one appears best, namely that people who marry must know that children are got by some cooperation between husband and wife, but they need not know the precise way in which children are procreated. Ignorance of what marriage means is not presumed in persons who have reached the age of puberty.

3. Mistake invalidates attempted marriage in any one of three ways:

(a) Mistake concerning the actual person with whom marriage is being contracted.

(ó) Mistake concerning some quality of a person which is equivalently a mistake about the person. Thus A wishes to marry the elder of two daughters but not the younger; if he mistakenly marries the latter, the marriage is null.

(c) If a person who is free celebrates marriage with one whom he or she mistakenly thinks to be free, whereas that party is a slave in the strict sense.

(</) Mistake on the part of one in regard to some quality other than those mentioned, as, for instance, that the woman is a virgin, or rich, or likely to become so, does not invalidate marriage, even if the mistake was the reason for marrying the said woman.

(e) A mistake concerning the unity or the indissolubility or the sacramental character of marriage does not affect the consent, even if the mistake was the reason for marrying. Thus the mistake made in thinking that divorce is possible does not vitiate the true matrimonial consent, even if it was the reason for marrying.

(/) The knowledge or persuasion that a marriage, whilst being contracted, will be invalid does not necessarily exclude true consent. Thus A could give a good consent to marry though he thought that there was present a diriment impediment existing to the marriage.

4. Pretence:

(a) The interior consent of one who celebrates marriage is always presumed to be in conformity with the words or signs employed. If nullity is sought on the ground of simulated, or forced consent, the lack of true consent would have to be established by irrefutable evidence.

(ά) But if either or both of the parties to a marriage positively and deliberately excluded marriage itself, or all right to the conjugal act, or some essential property of marriage, then the marriage would be null.

5. Duress and fear.

MARRIAGE

Marriage celebrated under physical duress or great fear or grave moral pressure unjustly induced by some extrinsic agent is invalid, when the person so influenced is forced to go through the marriage ceremony in order to be rid of the fear or pressure. The fear may be grave absolutely or relatively. The injustice exercised may be against the person who is forced to marry, or that person's relatives; it need not be directed precisely to forcing the consent. The case must be judged by the intention of the person who suffers the injustice. No other kind of fear voids marriage, even if it was the reason for entering into the contract.

SECTION 3. The Manner of Expressing Consent

1. For the valid contract of marriage, the contracting parties must celebrate it in person or by proxy. This rule excludes what was formerly permissible, namely, marriage by letter or messenger.

2. The contracting parties must e.xpress their mutual consent to marry' one another in words, if they can do so; if they cannot, they may employ equivalent signs of their consent.

3. The legitimate use of a proxy is ruled as follows:

(a) Besides fulfilling all diocesan statutes in force, the proxy must have a precise commission to enter into the contract in behalf of the principal with a particular person, and the commission must have been signed by the principal, and by either the parish priest or Ordinary of the place where the commission was given, or by a priest delegated by either of these two, or by at least two witnesses. The principal must personally appoint the proxy7; he cannot delegate another to do so (P.G.C.J., May

(5) If the principal cannot write, that circumstance must be mentioned in the instrument of the commission and an additional witness must sign the document, otherwise the commission is null.

(c) The marriage celebrated by the proxy would be invalid if the principal had revoked the commission or had lost his (her) reason, even if the proxy and the other contracting party were ignorant of the fact.

(if) The proxy must act in person; he cannot delegate another.

(e) The parish priest may not assist at a proxy wedding except for a good reason and with certainty of the genuineness of the commission.

4. Marriage can also be contracted through the offices of an interpreter, but the parish priest must assure himself of the absolute trustworthiness of the interpreter, and must have the Ordinary's permission to act if time allows reference to him.

4. Conditional Consent

I. A conditional consent to marry is a consent limited by some

reservation. It may be a *sine qua non,* or merely an agreement to do something after marriage. A condition may affect the validity of a marriage; an agreement does not.

2. Conditional consent is ruled as follows:

(a) No condition should ever be added to the contract of marriage unless it is a lawful one and is added for a grave reason.

(/>) A suspensive condition suspends the existence of the marriage until the condition has been fulfilled.

(c) If a lawful condition is added with mutual consent, it must be so expressed that it may be proved in the external forum.

(d) If a condition regards some future and necessary event, or one that is impossible of fulfilment, or contrary to right moral conduct, but not contrary to the essence of marriage, it is to be regarded as non-existent. But the condition may have been seriously intended. If so, and if it was an impossible one, the marriage is void; if it was contrary to right moral conduct, neither party is bound to observe it, and it must be withdrawn. If, however, it is not withdrawn, the marriage becomes valid when the condition is fulfilled.

(e) If a condition referring to the future is contrary to the essence of marriage, it renders the marriage void, for no contract can be valid if its object is excluded. Thus if a condition was laid down that contraceptives should always be employed, the marriage would be void. If, however, the parties agreed to use contraceptives always, the marriage would be valid, for the agreement was not a *conditio sine qua non* of marrying; it was an agreement to abuse marriage after marrying.

(J) If a condition referred to the past or the present and was verified at the time of marriage, the marriage was valid; if the condition was not verified, the marriage was void.

3. Consent given to marriage is presumed to persist until its revocation is established, even when marriage was invalid owing to the presence of an impediment.

CHAPTER XXIV

THE CANONICAL FORM OF MARRIAGE
(cc. 1094-1103)

SECTION 1. The Form Itself

i. Only those marriages are now valid which are contracted in presence of the parish priest of the place of celebration, or of the local Ordinary, or of a priest delegated by either, and of at least two witnesses, always, however, in accordance with what follows and without

prejudice to the exceptional celebration allowed by the canons (c. 1098). Heretics may not be witnesses to a Catholic marriage except with the permission of the local Ordinary (S.O., Aug. 19, 1891).

2. When the Ordinary, or the parish priest, or one delegated by either, is not available or accessible, the following exceptional procedures are approved by the canons (c. 1098):

(a) In danger of death, marriage contracted in presence of witnesses only is valid and licit.

(b) Outside the danger of death, marriage is valid and licit in the presence of witnesses only, if it is prudently foreseen that a legally competent priest wall not be available or accessible for a month to come. But there must be moral certainty of this (P.C.C.J., Nov. 10, 1925). The absence of a legitimate priest means either physical or moral absence, that is, though a legitimate priest is available and even physically present, if he cannot act as assistant without grave inconvenience, such as, for example the liability to prosecution, then he is absent (P.C.C.J., July 25, 1931)· Belief that a legitimate priest is not available or accessible is not sufficient to securè the validity of a marriage without a priest (Rota, *Decis.* Jan. 30, 1926).

(c) But in the absence of a qualified priest, another priest, if available, should be called to assist; in default of this, the marriage would be valid in the presence of witnesses alone.

SECTION 2. Persons Subject to the Form

1. All persons baptized in the Catholic Church (cf. c. xvii, sect. 4, n. 2, *supra),* and all converted to it from heresy or schism (these being presumed to have been baptized), even though they have apostatized, when they marry among themselves.

2. All the aforesaid, when they marry a non-Catholic, baptized or not, and even after dispensation to marry them.

3. Catholics of an Eastern rite when they marry a Catholic of Latin rite.

SECTION 3. Persons Not Subject to the Form

1. Those not baptized in the Catholic Church nor converted to it, if they marry among themselves.

2. The following were exempt from the form up to January 1, 1949, namely, those bom of non-Catholic parents (even one parent being non-Catholic), though baptized in the Catholic Church, if they had been brought up from infancy in heresy, or schism, or infidelity, or without religion, when they marry a non-Catholic. In this context, the term non-Catholic parents includes apostates and atheists (P.C.C.J., Feb. 17, 1930; July 30, 1934). The exemption was abolished by Pope Pius XII, *Motu Proprio,* Aug. 1, 1948, and it operates from Jan. 1, 1949.

Notée

1. In the case of persons doubtfully baptized, their marriages would be upheld as valid though not contracted in canonical form, until the validity was clearly disproved (c. 1014).

2. Children of converts are regarded as converts if brought up from infancy in the faith.

SECTION 4. Valid Assistance at Marriages

1. The local Ordinary and the parish priest can assist validly at marriages from the day on which they have taken office, unless by a condemnatory or declaratory sentence they have been excommunicated, interdicted, or suspended from office or declared such. But a parish priest even if forbidden by his Ordinary to assist, can do so validly.

2. The Ordinary and parish priest can assist validly within their respective territories only, and they can do so therein in the case of persons not their own subjects. Priests who are strictly personal parish priests can assist validly anywhere at the marriages of their own subjects.

3. Assistance at a marriage is invalid if given under the influence of violence or grave fear, which induced the priest to solicit and receive the matrimonial consent of the parties. The aforesaid influence must have been induced by a free, extrinsic agent. This provision of law does not apply to witnesses.

4. Passive assistance at illicit mixed marriages is not sufficient, that is, the mere presence of Ordinary or parish priest is insufficient; they must take an active part in the celebration of a marriage and positively solicit and receive the matrimonial consent even in a mixed marriage. Permission was formerly given for such passive assistance, but is now revoked (P.C.C.J., March 10, 1928).

5. Common error is a reason for the Church supplying the necessary faculty of valid assistance to a putative parish priest. Whether or not it does so in the case of a putative curate or supply priest is at least very doubtful.

6. A curate cannot validly assist at marriages in his parish in virtue of his office (P.G.G.J., Jan. 31, 1942). Similarly, a curate, by virtue of office cannot validly assist at, or delegate others to assist at, marriages even though it does not appear from diocesan statutes, or letters of his Ordinary, or commission from his pastor, that any limitation of his rights has been imposed (Pres. Cod. Com., Sept. 13, 1933). A priest who has delegated faculties for all purposes has not *ipso facto* general delegation to assist at marriages (Pres. Cod. Com., Jan. 25, 1943).

7. A vicar substitute (i.e. a priest who, after the approval of the

Ordinary, takes the place of a parish priest who will be absent beyond a week, c.465, §4) can assist validly at marriages, if no limitation has been imposed on him; so, too, can a parish priest who is a Religious, even before the approval of his Superior (P.C.C.J., July 14, 1922; May 20, !923)·

8. A vicar or supply priest who takes the place of a parish priest in a sudden emergency can assist at marriages validly if his designation had been made known to the Ordinary who has not provided otherwise (P.C.C.J., May 20, 1923).

SECTION 5. Valid Delegation to Assist at Marriages

1. A local Ordinary or a parish priest can delegate a priest to assist at a marriage validly within their respective territories.

2. A temporary adminstrator of a parish *(vicarius oeconomus,* cc. 472, 473) can delegate a particular priest to assist at a particular marriage (P.C.C.J., May 20,1923).

3. A vicar substitute (cf. *supra* 7) can delegate in the same way after the approval of the local Ordinary, who has placed no restrictions *(loc.*

4. The vicar of a religious pastor can delegate in the same way after the approval of the local Ordinary before that of his religious Superior *(loc. cit.).*

5. The vicar or supply priest (cf. *supra* 8) can delegate in the same way if the Ordinary has been notified of the designation, and has not provided otherwise *(loc. cit.).*

6. A vicar coadjutor appointed by the local Ordinary to take the place of a parish priest who is unable to perform his duties can delegate in the same way *(loc. cit.).*

7. A curate *(vicarius cooperator)* who has general delegation from his pastor or Ordinary to assist at all marriages can subdelegate a particular priest for a particular marriage (P.C.C.J., Dec. 28, 1927).

8. When a pastor or Ordinary has delegated a particular priest to assist at a particular marriage, he can give him permission to subdelegate another priest to assist at that marriage *(loc. cit.).*

SECTION 6. Lawful Assistance at Marriages

I. For lawful assistance at a marriage, the Ordinary and the parish priest must have a morally certain assurance that the parties are free to marry one another, and that they are their territorial subjects, or that at least the bride is such, a condition which is secured by a domicile, or quasi-domicile, within the parish, or, if the parties have no domicile or quasi-domicile anywhere, that they actually reside in the parish. In

the latter case, the parish priest must have permission of the local Ordinary to assist at the marriage.

2. The bride's parish priest has the prior right to celebrate the marriage. If there are several parish priests of the bride, any one of them can lawfully celebrate the marriage. If a priest other than the proper parish priest celebrates the marriage—even in his own territory—he must have the permission of the parish priest or Ordinary of the bride. If he does not obtain that permission, he must send the marriage fee to the proper parish priest unless some grave necessity of acting excused him from seeking permission.

CHAPTER XXV

THE RITE AND BLESSING OF MARRIAGE
(cc. 1100, 1101)

1. Apart from necessity, marriage must be celebrated in accordance with the rites and ceremonies prescribed in the ritual books approved by the Church and laudable custom.

2. The parish priest should urge married persons to receive the solemn blessing of the Nuptial Mass. This can be given even after years of married life, but only during the Nuptial Mass, with due observance of the rubrics which rule a Nuptial Mass, and not during close time.

3. The solemn blessing cannot be given validly and licitly except by a priest who could have assisted at the marriage validly and licitly.

4. A less solemn blessing apart from Mass may be given in virtue of papal induit granted to England (cf. *Ordo Admin.,* tit. vii, c. ii).

5. When the Nuptial Mass is not permitted, there is an equivalent blessing consisting of prayers recited at the end of the marriage ceremony that may be used in all cases except when one party is not a Catholic (cf. *Ordo Admin.,* tit. vii, c. ii).

5. A widow who had received the nuptial blessing before may not receive it on remarrying. If she had not received it before, she may receive it on marrying even a widower who had previously received it (cf. *Ordo Admin.,* tit. vii. c. i, n. 16).

6. The newly wed may enter the sanctuary to receive the blessing and kneel on a step or the predella. This appears to be a custom in England.

CHARIER XXVI

THE CELEBRATION OF A MIXED MARRIAGE
(c. 1102)

I. The priest who assists at a mixed marriage must ask and receive the matrimonial consent of both parties (P.C.C.J., March 10, 1928).

2. In the celebration of such a marriage, all sacred rites are forbidden. The priest does not wear either cotta or stole, the ring is not to be blessed, the parties themselves are not blessed, the marriage is not celebrated in the church building, but in the sacristy. But the local Ordinary' may give permission for some of the customary rites to be used, if he judges it necessary in order to avoid considerable evil. He may allow the marriage to be celebrated in the church like any Catholic marriage. But Mass is never allowed, if it has the appearance of being complementary to the marriage (P.C.C.J., Nov. 10, 1925). The priest must, therefore, conform to the rules of the diocese in which he assists at a mixed marriage.

CHAPTER XXVII

REGISTRATION OF MARRIAGES
(c. 1103)

i. When a marriage has been celebrated publicly, the parish priest or his deputy must as soon as possible (within three days) inscribe in the marriage and baptismal registers the names of the parties married and of the witnesses, the place and date of the marriage, and all other details that are prescribed by the ritual books and local regulations. The entry is normally made by the priest who assisted at the marriage and is countersigned by the parish priest. A marriage that is rectified, if not one of conscience or in confession, must also be entered in both marriage and baptismal registers.

2. When a marriage cannot be entered in the register owing to some reason for secrecy, it is to be entered in the secret register of the curial archives (c. 379), but no entry at all may be made if a marriage has been rectified in the tribunal of Penance alone.

3. If one or both of the married parties were baptized elsewhere

than in the church of their marriage, notifications of the marriage and all particulars duly signed and sealed with the parish seal must be sent to the parish priest of the church in which the parties were baptized, that he may enter the marriage in his baptismal register. This duty is serious and the neglect of it may be punished with canonical penalties.

4. A marriage celebrated under extraordinary circumstances (c. 1098) must be notified to the parish priest of the place of celebration, by the married parties, the witnesses, or the assistant priest, if there was one, and to the parish priest of the church of their Baptism. This obligation is laid on all the aforesaid persons severally and conjointly.

5. When a priest acts as a civil registrar, he must fill in the civil register with the greatest exactness; if he fails to do so, he is liable to legal penalties.

6. It is advisable to issue a certificate of a marriage to the parties at once after marriage as it may be urgently required for future use.

CHAPTER XXVIII

MARRIAGE OF CONSCIENCE
(cc. 1104-1107)

1. A marriage of conscience is one that is celebrated privately owing to some circumstance of possible scandal or conscientious reasons. An example would be that of two persons who have been regarded publicly as man and wife but in fact were not, or of some obstacle which precludes the issue of a civil certificate to marry. Such marnages are permitted only for grave reasons. The local Ordinary is the proper person to grant permission for them, or the Vicar General if he has a special mandate to do so.

2. When such a marriage takes place, there is imposed on the assistant priest, the witnesses, the Ordinary and his successors, the grave obligation of keeping the matter secret. Each of the married parties is similarly bound to secrecy unless they agree to allow the facts to be disclosed.

3. But the Ordinary is not obliged to maintain secrecy, if scandal or grave injury to the sanctity of marriage would result from his silence, or if the parents did not trouble to have their offspring baptized, or if they had them baptized under false names, and had failed to acquaint the Ordinary within thirty days with the true names of the parents, the birth and Baptism of the offspring. He is also exempted

from secrecy if the parents neglect the Christian education of their offspring.

4. A marriage of conscience is not to be entered in the ordinary marriage or baptismal registers unless it has become public, but is to be entered in the special register kept in the secret curial archives in order that the marriage may be proved in the external forum, if that should prove necessary.

CHAPTER XXIX

THE TIME AND PLACE FOR CELEBRATING MARRIAGE
(cc. 1108, 1109)

1. Marriage may be contracted at any time of the year and at any hour of the day or night, but the civil law as to times must be observed (8 a.m. to 6 p.m., in England and Wales), even by priests who act as civil registrars.

2. Solemnization of marriage with Nuptial Mass and blessing are forbidden from the first Sunday of Advent to Christmas Day inclusive, and from Ash Wednesday to Easter Sunday inclusive. But local Ordinaries may permit the Nuptial Mass during those periods for a just reason and without prejudice to liturgical laws; if permission is granted, the parties concerned are to be warned to refrain from excessive display, such as using expensive equipage, many bridesmaids, profuse ornaments, flowers, music, and confetti.

3. Catholic marriages must be celebrated in the parochial church, but the local Ordinary or the parish priest may give permission for a marriage to be celebrated in another church, or an oratory, public or semi-public.

4. Marriage may not be celebrated in a private house, even if it has an oratory, except with the permission of the local Ordinary in exceptional cases and for a just reason.

5. It would require a very urgent reason for the local Ordinary to allow marriage to be celebrated in a church or oratory of a seminary or convent, and then effective measures must be taken to avoid spiritual harm ensuing, as, for example, by excluding clerics and nuns from witnessing the ceremony.

6. Marriage between a Catholic and a non-Catholic must be celebrated outside the church, as already explained, unless the local Ordinary prudently thinks that the rule cannot be observed without considerable harm ensuing. No priest is entitled to make exceptions.

Note. The Blc.^ing after Childbirth

1. The blessing after childbirth is not to be regarded as in any sense a rite of purification; it is rather a pious custom of Christian mothers to present themselves for the Church's blessing and to thank God for a safe delivery.

2. It is more commonly held that this blessing is given only to the mother of a child born in lawful wedlock, but if there is no local prohibition, this restriction need not be made, provided that the marriage of the parents of the child had taken place before the actual birth of the child, though it was conceived outside wedlock. The blessing may be given even if the child died before its baptism. This blessing may be given to a non-Catholic mother that she may receive the light of faith and with it bodily health, provided that there is no scandal or local prohibition (c. 1149).

CHAPTER XXX

THE EFFECTS OF MARRIAGE

SECTION 1. The Effects of Marriage as a Sacramental Contract

1. The first effect of the contract of Christian marriage is the moral bond, symbolizing the bond between Christ and the Church; this bond is one that joins the parties in a union that is permanent and exclusive. It is permanent, inasmuch as it persists during the common lives of the parties, unless it is legitimately severed. It is exclusive, inasmuch as it excludes marriage, cohabitation, and all sexual association with anyone except the consort.

2. Christian marriage, if worthily received, that is, received in the state of sanctifying grace, bestows an increase of sanctifying grace on the married, and gives a right to those actual graces which are necessary and useful in married life, for the Sacrament is a permanent one. The graces of married life are those divine helps which enable the married to foster mutual love, to be faithful to one another, to educate their children in the fear and the love of God, and to bear the trials incidental to that state of life.

3. The matrimonial rights which marriage gives are as follows.

(a) From the inception of marriage, both parties to it have identical rights and duties in regard to the actions which are proper to conjugal life. These are consortium, common bed and board, and marital relations. The right to ask for marital relations may, however, be

excluded by vows antecedent or subsequent to marriage, as already explained in the treatment of vows as prohibitory impediments.

(0) In conjugal society, the husband is the head of the wife: "Let women be subject to their husbands, as to the Lord: Because the husband is the head of the wife" (Ephes. 5. 22, 23). But he is the head of the wife only in domestic society; he has no greater right than the wife has in regard to marital dues, whether in asking for or giving them. The subjection of the wife, in the words of Pope Pius XI *(Encyclical Letter on Christian Marriage)* "does not deny or take away the liberty which fully belongs to the woman, both in view of her dignity as a human person, and in view of her most noble office as wife and mother and companion; nor does it bid her obey her husband's every request, if not in harmony with right reason and with the dignity due to a wife; nor in fine does it imply that the wife should be put on a level with those persons who in law are called minors, to whom it is not customary to allow the free exercise of their rights on account of their lack of mature judgment, or of their ignorance of human affairs. But it forbids that exaggerated liberty which cares not for the good of the family; it forbids that in this body, which is the family, the heart be separated from the head, to the great detriment of the whole body, and the proximate danger of ruin. For if the man is the head, the woman is the heart, and as he occupies the chief place in ruling, so she may and ought to claim for herself the chief place in love."

(r) The wife is made partaker of the husband's condition so far as canonical effects are concerned, unless some special ecclesiastical law rules otherwise. Thus the wife shares in the name, the social condition, the rank, the privileges of her husband, his domicile, may adopt his rite, and after death is buried in his tomb.

SECTION 2. The Duties to Offspring

1. Parents have a most serious duty to give to their children, according to their means, a religious, moral, intellectual, physical, and civic education, and to make due provision for their temporal good.

2. Parents must have their children baptized betimes, usually within a week or ten days after birth, must have them instructed in Christian doctrine, see that they confess, are confirmed, receive Holy Communion, at the appropriate ages, attend Catholic schools, may not deter them from entering on a life of perfection, nor oblige them to marry, nor unreasonably object to their marrying.

SECTION 3. Legitimacy of Offspring

1. Legitimacy is either natural or legal. Children are naturally legitimate if born in valid wedlock. They are legally legitimate if declared so by positive law. Thus a child may be canonically legitimate though civilly bastardized, and contrariwise, a child of a legally divorced person who remarries is civilly legitimate though canonically and, indeed, naturally illegitimate.

2. According to the Church's provisions in Canon law, a child is illegitimate if born out of true, or of putative wedlock. The terms employed relating to offspring are as follows:

A child born of unmarried parents, if they could have married validly, is a natural child.

The child is spurious, if the parents could not have married validly at the time of its birth.

A child is adulterine if a child of adultery.

A child born of parents or parent bound by the solemn vow of chastity in a religious Institute, or if the father is in Sacred Orders (subdeacon, deacon, priest, or Bishop), is sacrilegious.

A child is incestuous, if born of parents who are related by blood or marriage in a degree which debars them from marrying one another.

A child is incestuous and nefarious if born of parents who are related in the direct line of consanguinity, as father and daughter.

3. Canonical legitimacy is defined as follows: "Those children are legitimate, who are conceived or born of a valid or a putative marriage, unless the use of the marriage previously contracted was forbidden the parents at the time of conception of the child, owing to the solemn religious profession of either parent or of both, or to the Sacred Orders of the father."

4. Presumed legitimacy.

(a) The man is presumed to be the father of a child with whose mother he is joined in valid wedlock, unless evident reasons prove that he is not.

(b) Those children are presumed to be the legitimate children of a man and his wife, who were born at least six months after the marriage of the said parties, or within ten months after breach of consortium. These are presumptions of law and can be rebutted by evidence to the contrary.

SECTION 4. Legitimation of Offspring

1. By the subsequent marriage of parents (i.e. of those who had been living together in invalid wedlock), whether the subsequent marriage is a true or a putative one, whether newly-contracted or convalidated, even if not consummated afresh, the offspring of such previous union

is legitimated, provided that the parents were capable in law of marrying one another either at the time of the conception of such offspring, or during the mother's pregnancy, or at its birth.

2. There are two exceptions to this rule. If the parents of a child bom of their union which was invalid owing to either the impediment of age or of difference of worship married subsequently, their marriage would not legitimate the child, even if the impediment had lapsed at the time of their true marriage (P.C.C.J., Dec. 6, 1930).

3. If offspring had been born before the parents of it were dispensed from a diriment impediment which operated against their union, legitimation of the offspring can be granted by papal authority. This legitimation may be granted explicitly, when, that is, the rescript states that legitimation shall take place, or implicitly, when legitimation is virtually included in the grant. Thus when a diriment impediment is dispensed by virtue of ordinary power, or of power delegated by a general induit, offspring, if already born, or even only conceived, is legitimated, unless it is adulterine or sacrilegious (c. 1051). The Pope always acts with ordinary power; a Bishop and priest so act in cases of danger of death.

4. Legitimation takes effect at the moment when the rescript is executed, if granted for a particular case *in forma commissoria·,* it takes effect at the moment of the grant of the dispensation, if the rescript was granted by virtue of ordinary power or of general induit.

5. Children legitimated by the subsequent marriage of their parents are assimilated in all respects, so far as canonical effects are concerned, to the legitimate, unless the contrary is expressly stated, as it is in the cases of Cardinals, Bishops, and Abbots or Prelates of independent jurisdiction.

The Legitimacy Act 1926 provides for the legitimation of children by the subsequent marriage of their parents. The father must have been, or be, domiciled in England or Wales at the date of the marriage, and at the date of the birth of the child both parents must have been free to marry one another.

CHAPTER XXXI

DISSOLUTION OF THE MARRIAGE BOND
(cc. 1118-1127)

SECTION 1. Consummated Christian Marriage

A valid, ratified and consummated marriage between two baptized persons is dissolved only by death. No power exists on earth which is capable of dissolving it. This indissolubility is attributed by theologians to two elements, namely, the sacramental character and the consummation of marriage.

SECTION 2. Unconsummated Christian Marriage

Marriage which has not been consummated between two baptized persons, or between a person baptized and one not baptized, can be dissolved in either of two ways, namely, by solemn religious profession, or by papal dispensation for a just cause, at the request of both parties, or of one only, even if in the latter case the other party is unwilling. The law makes no provision when both parties are unwilling.

SECTION 3. Marriages of the Unhaptizcd—the Pauline Privilege

Marriage between two persons who are not baptized, even if consummated, is dissolved in favour of the faith by virtue of the Pauline privilege. This privilege was promulgated by S. Paul in these words (1 Cor. vii. 12 sqq.): "If any brother have a wife that believeth not, and she consent to dwell with him, let him not put her away. And if any woman have a husband that believeth not, and he consent to dwell with her, let her not put away her husband . . . but if the unbeliever depart, let him depart. For a brother or sister is not under servitude in such cases. But God hath called us in peace." This privilege does not, however, apply to a marriage between a baptized person and one not baptized contracted with dispensation from the impediment of difference of worship.

SECTION 4. The Application of the Pauline Privilege

I. Departure on the part of the unbaptized person is interpreted widely. It means departure for any reason whatever, no cause for it

being given by the baptized party. The departure may, therefore, be malicious or not, voluntary or not.

2. Before the converted and baptized party can validly contract a fresh marriage in virtue of this privilege, the other party, still unbaptized, must be questioned on two matters, namely, first, if he or she wishes to be converted and baptized, secondly, if, failing conversion and Baptism, he or she is willing to live with the other party at peace without offence to God. Offence to God is given, if the unbaptized party is guilty of grievous sin against faith or religion, or tries to induce the baptized party to commit grievous sin of any kind, or refuses to have the children educated in the Catholic faith. The two aforesaid questions must always be put unless the Apostolic See has decided otherwise.

3. These two questions should, as a general rule, be put at least in summary and extra-judicial form by the authority of the Ordinary of the converted party. Time must be allowed for the unbaptized party to reply, if time is asked for, but with the warning that if the period assigned elapses without reply a negative one will be presumed.

4. In cases where the aforesaid procedure cannot be adopted the questions may be put privately by the converted party, but the proof that they have been put must be established by the testimony of at least two witnesses or in some other legal way.

5. The aforesaid questions may be omitted by permission of the Apostolic See. If they were then omitted, or if the unbaptized person gave a negative reply, expressly or tacitly, the baptized party has the right to contract a fresh marriage with a Catholic unless he or she had given cause after Baptism for separation to the former partner.

6. The conversion and Baptism of one party and the departure of the other do not dissolve the bond of the marriage, but only give the right to the former to contract a fresh marriage under the aforesaid conditions. It is only when the fresh marriage is contracted that the former marriage is dissolved.

SECTION 5. Dissolution of .Marriage by Papal Power

I. The immediate question now dealt with is this: Has the Pope the power to dissolve marriages contracted in infidelity apart from the application of the Pauline privilege?

(a) Though many authors formerly thought he could not do so, it is certain that he can. Undoubtedly Popes have granted dissolutions when the Pauline privilege could not have been invoked. This may be confidently stated in view of the Constitutions of the three Popes referred to below (cf. n. 2).

(Z>) Pope Pius XI granted a dissolution of the bond of marriage

between an unbaptized man and a woman of the Anglican Church, who, being deserted by her husband, wished to become a Catholic and marry a Catholic. Similar cases are cited.

(c) In ecclesiastical documents, the only marriages stated to be absolutely indissoluble (apart from pagan marriages, the parties remaining pagan) are marriages between two baptized persons which were consummated. Pope Alexander III declared this to be so. The Code of Canon Law (c. 1118) declares the indissolubility of such marriages alone. Consequently, papal power to dissolve marriages extends further than is contemplated in the application of the Pauline privilege.

2. The papal Constitutions referred to above are as follows:

(a) Pope Paul III allowed a pagan man who, before his conversion and Baptism, had several wives in accordance with national or tribal custom, to retain after Baptism that wife whom he preferred, if he did not remember who was his first wife.

(ò) Pope S. Pius V allowed those polygamous Indians who received Baptism to retain the wife who also received Baptism, as the true wife, and dismiss the others, if it was very difficult to separate from the baptized wife, or to discover who the first wife was.

(c) Pope Gregory XIII allowed those Africans who had been shipped to America by Spaniards and Portuguese, and had thus been separated from their consorts, to contract after conversion fresh marriages with Catholics, provided that the said consorts could not be legitimately notified, or if notified did not express their wishes within a fixed period of time.

SECTION 6. Favour of tbe Law

In doubt, the privilege of the faith enjoys the favour of the law. Law favours the freedom of the converted party of a previous pagan marriage as against the claims of the unconverted party. Thus when it is doubtful whether or not the marriage before the Baptism of one party was in fact valid, whether the conditions for the use of the Pauline privilege w'ere fulfilled, whether the converted party had given cause for separation, the benefit of the doubt is given to the converted party.

Again, if the validity of the marriage before Baptism was doubtfill owing to a doubt as to the consent of the parties, the testimony of the converted party is final. Perhaps such cases as these are cases in which papal power is used in favour of the faith.

CHAPTER XXXII

BREACH OF CONSORTIUM
(cc. 1128-1x32)

SECTION 1. The Duty of Consortium

i. Married persons are bound to lead conjugal life in common unless some just reason excuses them. Common conjugal life includes living in the same house, sharing the same bed and board.

2. There can be legitimate reasons for discontinuance of common life. Such is the teaching of Holy Scripture (1 Cor. vii. 11 ; Matt. xix. 29). The canons give several examples, and the Council of Trent defined the truth that the Church does not err when it decrees that separation of the married can be justified for many reasons (C.T., sess. xxiv, can. 8, de Matr.).

SECTION 2. Reasons for Separation of the Married

1. The first legitimate reason for separation is adultery. This sin gives the innocent party the right to sever consortium permanently, unless he or she condoned it expressly or tacitly, or gave cause for it in some way. Thus persistent unreasonable refusal to give marital dues could be an occasion of adultery.

2. Tacit condonation of adultery and constructive admission to consortium are given by the innocent party if, having become aware of the adultery, he or she has continued conjugal life spontaneously and with conjugal affection. This condonation is presumed to have taken place unless, within six months from the time of the offence, the innocent party has dismissed or separated from the adulterer, or, failing that, has filed a legitimate accusation against that party. If the period of six months has elapsed, then, for purposes of legitimate accusation, that party will have to prove that during the period conjugal relations were discontinued, or, if they were not, that they were continued under duress or ignorance of the right to separation.

3. After legitimate separation, whether effected by judicial sanction, or on private initiative, the innocent party is never afterwards obliged to admit the guilty party to consortium, but may do so, and then the guilty party is obliged to return, unless with the consent of the innocent party the former has entered upon some state of life which is incompatible with the married state. Such states of life are the clerical state by reception of Sacred Orders, and the taking of vows in the religious

state. If the innocent party entered upon either of these states of life, the guilty one may also do so. But the innocent party would require a dispensation from the Holy See to do so, and the guilty party could easily then get a similar dispensation.

4. If one party became aggregated to a non-Catholic sect, or was educating the offspring outside the Catholic faith, or living a scandalous or disgraceful life, or seriously endangering the spiritual or bodily welfare of the other consort, or making life intolerable by savagery, such and similar offences are so many legitimate reasons for the Catholic to separate from the other, either by invoking the administrative action of the Ordinary, or even by private initiative, if, in the latter case, the reasons were certainly established and there was danger in delay. Several of these grounds would not be admitted in the English Courts, so that a judicial separation should be sought with the permission of the Ordinary, before the innocent party separates from the guilty one.

5. When the reason for breach of consortium has ceased to exist, conjugal life must be resumed. However, if separation had been decreed by the Ordinary for a period, fixed or indeterminate, the innocent party is not obliged to resume consortium except by order of the Ordinary, or after the fixed period has transpired.

6. When separation has legitimately taken place, the children of the mai-riage are to be brought up by the innocent party, except that if one of the parties is not a Catholic, the Catholic party is to bring up the children. But in any case, the Ordinary may decide what is to be done with the children with a view to their good, always without prejudice to their Catholic upbringing.

CHAPTER XXXIII

RECTIFICATION OF AN INVALID MARRIAGE
(cc. 1133-1141)

SECTION 1. Rectification in Genera!

An apparent marriage may have been invalid for one of many reasons; for example, one of the parties may not have given true consent, or the proper form may not have been observed, or some impediment may have operated against the marriage, such as, want of age, consanguinity, affinity, crime, impotence. In some cases the marriage can be rectified, in other cases it cannot. In some cases the marriage can be

rectified by renewal of consent after dispensation from, or cessation of, an impediment; in other cases renewal of consent is not necessary. There is, therefore, a twofold method of rectifying a marriage, each of which calls for consideration.

SECTION Rectification of Marriage by Renewal of Consent

1. In order that an invalid marriage may be rectified owing to a diriment impediment, it is necessary that the impediment should cease to be present, as nonage, or that it should be dispensed, and that a new consent to the marriage should be given at least by that party who was conscious of the impediment. The renewal of consent is required by ecclesiastical law.

2. This renewal of consent must be a positive and distinct act of the will in regard to the rectified marriage, with the knowledge that the original one was null from the beginning, for the renewal of an insufficient consent is itself insufficient.

3. If the impediment is a public one, both parties must consent in the proper canonical form. The form is prescribed in order that the rectification may be publicly known and all scandal precluded; but for a good reason the Ordinary may allow the marriage to be rectified secretly in a private house; but if scandal has to be removed, the fact must be made known. Marriages cannot, of course, be legally celebrated in a private house, but if the parties had already been civilly married in a register office, the law pays no regard to any subsequent ceremony. This is not, however, the method to be generally adopted when the marriage took place in a non-Catholic church; such an invalid marriage can be rectified by the second method of rectifying marriages, namely, by *sanatio in radice,* explained later.

4. If the impediment is occult and known to both parties, after dispensation it is sufficient that both parties give a new consent privately, that is, without priest and witnesses, and secretly, that is, without the knowledge of others. This consent is sufficiently given if each party lives with the other with conjugal intent. The two consents need not be given on one and the same occasion. If one of the parties cannot be brought to give a new consent, the second method of rectification may be used if both original consents persist.

5. If the impediment is occult and known to only one party, after dispensation it is sufficient that he or she makes a new consent privately and secretly, provided that the consent of the other persists.

6. When the consent of only one party had originally been wanting, as in the case of a forced marriage, if the defect was wholly interior, it is sufficient that consent be now given interiorly. If, however, the defect of consent was also external, as when invalidating conditions were laid down, the new consent must be externally manifested and in the proper canonical form.

7. If the marriage was null owing to defect of canonical form, such as the marriage of a Catholic in the register office, it must be contracted anew in the proper form, but as already stated, the proper form is not always necessary; it can sometimes be dispensed and a *sanatio* can be granted.

SECTION 3. Retroactive Convalidation

1. This convalidation is the rectification of an invalid marriage when the impediment is dispensed, or has ceased to exist, and dispensation is given from the law of giving a new consent, so that the marriage is healed from its inception and enjoys all canonical effects as though it had been always valid. This rectification is termed *sanatio in radice,* the healing of the consent, for the root or basis of marriage is consent.

2. The essence of this convalidation is that the Church dispenses from the necessity of expressing a new consent in any way, and adds the favour of canonical effects as from the inception of marriage.

3. The rectification takes place at the moment when the favour is conceded, and unless some restriction is made in the grant the retroaction extends to the beginning of the marriage.

4. The dispensation from giving a new consent can be given without the knowledge of either or of both parties. It can be given even against the will of one of the parties, and if both are dead, a partial retroaction can be granted for the benefit of the offspring.

5. This retroactive convalidation can be applied to any marriage contracted by a consent naturally sufficient for marriage though juridically ineffectual. But the consent of both parties must be persisting, for a consent cannot be healed if it does not exist. The Church does not thus rectify a marriage which had been contracted under an impediment of Natural law, as impotence, or divine law, as the bond, not even from the moment when the impediment ceased to exist.

6. Such rectifications can be granted only by the Holy See. Bishops are sometimes delegated to grant them, as they were in England and Wales during the war (1939-1945).

7. When application is made to the local Ordinary for a *sanatio,* the priest will be informed what is to be done. In a case of a mixed marriage which is to be rectified, no sanation will be granted unless the usual guarantees are given by both parties. But Bishops may be satisfied sometimes with an implicit promise on the part of the non-Catholic party and not insist on written promises. Nevertheless, moral certainty of the sincerity of the guarantees must be obtained.

CHAPTER XXXIV

REMARRIAGE
(c. 1132)

Chaste widowhood is a more honourable state of life than that of married life. Second and subsequent marriages are valid and licit, all necessary* conditions being fulfilled. Although virginity and chaste widowhood are more perfect states of life than the married life, subsequent marriages may be sometimes advisable and, indeed, practically necessary.

CHAPTER XXXV

CIVIL MARRIAGE AND DIVORCE

SECTION 1. Civil Marriage

I. Civil marriage is here taken to mean marriage celebrated in the register office. Catholics are obliged to contract marriage in presence of the parish priest or his delegate and at least two witnesses, allowing for the exceptions already mentioned (c. xxiv, sect. 1, 2, b). There is no possible distinction between the contract as a civil one and the Sacrament (Pope Pius IX, *Syllabus,* n. 66. Denz. n. 1766).

2. When the civil form of marriage must be legally solemnized before the ecclesiastical one, Catholics know that they are not married in virtue of the former. In this country, the civil form must follow the ecclesiastical one. The priest himself acts as civil registrar when legally empowered to do so.

3. A merely civil marriage must be rectified by one of the methods already explained. It is inexcusable for a Catholic to go through the civil form of marriage after marriage in the church, for the sake of greater display than would be allowed in the church, or to please non-Catholic friends, and if the priest knows that this is going to happen, he may not assist at the marriage, nor may he assist at it without consulting the Bishop, if the civil procedure had taken place.

SECTION 2. Civil Divorce

1. Most States now claim the power of granting decrees both of judicial separation and of divorce. Catholics may apply to the civil Courts for a decree of judicial separation for a good reason to be submitted to the judgment of the Bishop.

2. Catholics may not petition the civil Courts for a dissolution of their valid marriage, but they may petition for a legal divorce after obtaining permission from the Bishop, in order to secure the civil effects of such a divorce. But it rests with the Bishop to decide whether or not the reasons are sufficient.

3. Since there can be situations in which petition for the civil effects of a legal divorce is justifiable, Catholic judges may pronounce a decree of civil divorce, and Catholic barristers may undertake divorce cases, always with submission to their Bishops. For Catholics, if judicial separation is sufficient, legal divorce may not be sought. This practice of Catholics seeking civil divorce with due permission is defensible at present and until the Church forbids all suits for civil divorce (cf. Treatise xi, c. 2 Appendix 1, n. 6).

CHAPTER XXXVI

THE USE OF MARRIAGE

SECTION 1. Papal Teaching

The Encyclical Letter of Pope Pius XI on *Christian Marriage* gives the following explicit teaching on the use of marriage:

"That mutual familiar intercourse between the married themselves, if the blessing of conjugal faith is to shine with becoming splendour, must be distinguished by chastity, so that husband and wife bear themselves in all things with the law of God and of nature, and endeavour always to follow the will of their most wise and holy Creator with the greatest reverence towards the work of God.

"First consideration is due to offspring, which many have the boldness to call the disagreeable burden of matrimony, and which they say is to be carefully avoided by married people, not through virtuous continence (which Christian law permits in matrimony when both parties consent), but by frustrating the marriage act. Some justify this criminal abuse on the ground that they are weary of children, and wish to gratify their desires without their consequent burden. Others say that they cannot on the one hand remain continent, nor on the other

can they have children because of the difficulties, whether on the part of the mother, or on the part of family circumstances. But no reason, however grave, may be put forward by which anything intrinsically against nature may become conformable to nature and morally good. Since, therefore, the conjugal act is destined primarily by nature for the begetting of children, those who, in exercising it, deliberately frustrate its natural power and purpose, sin against nature and commit a deed which is shameful and intrinsically vicious.

"Any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life, is an offence against the law of God and of nature, and those who indulge in it are branded with the guilt of a grave sin. . . . Holy Church knows well that not infrequently one of the parties is sinned against rather than sinning, when for a grave cause he or she reluctantly allows the perversion of the right order. In such a case there is no sin, provided that, mindful of the law of charity, he or she does not neglect to dissuade and deter the partner from sin.

"Nor are those considered as acting against nature who, in the married state, use their right in the proper manner, although on account of natural reasons, either of time or of certain defects, new life cannot be brought forth. For in matrimony as well as in the use of matrimonial rights there are also secondary ends, such as mutual aid, the cultivating of mutual love and the quieting of concupiscence, which husband and wife are not forbidden to consider, so long as they are subordinated to the primary end and so long as the intrinsic nature of the act is preserved."

SECTION 2. Replies of Roman Congregations

The following statements are based on various replies of Roman

1. When a husband practises simple onanism without the use of contraceptive devices, the wife may render marriage dues to him if, by not doing so, she apprehends great harm to herself. She does not then cooperate in the sin of her husband, but permits it for a just cause. Nevertheless she may not desist from prudently urging him to refrain from his vicious act.

2. A wife may not be absolved who could prevail on her husband not to act onanistically, if she does not do so.

3. It is not even probable that the misuse of marriage is not contrary to Natural law.

4. Some married persons are persuaded that there are infertile days in every month. If they have legitimate reasons for abstaining during the other days, their good faith need not be disturbed, provided that they do nothing that would impede conception.

5. Contraceptive use of marriage is intrinsically evil. A wife may not be either an active or a passive cooperator in such use.

6. It is not permitted to confessors to leave a person in good faith, if he or she happens to be in good faith, as to the wrong use of marriage.

7. A penitent may not be absolved who is unwilling to give up the abuse of marriage which he (she) attempts to justify, on the plea that the condition of the family would be reduced by more births or that the wife would be weakened by repeated childbirths.

SECTION 3. Artificial Fecundation

Some extracts from the papal Allocution to Catholic doctors (Rome, Sept. 29, 1949: A.A.S., 1949, pp. 559 sqq.).

1. The practice of human artificial fecundation cannot be regarded either exclusively, or even chiefly, under its biological and medical aspects, setting aside the aspects of morality and law.

2. Artificial fecundation outside marriage must be condemned purely and simply as immoral.

3. Indeed, Natural law and divine positive law determine that the procreation of a new life can be the fruit of marriage alone. Only marriage safeguards the dignity of the married (especially of the wife in this case), and their individual good. It alone provides for the good and the education of the child.

4. Consequently there is no possible divergence of opinion among Catholics in regard to the condemnation of artificial fecundation outside the conjugal union. A child conceived in such conditions is by that very fact illegitimate.

5. Artificial fecundation in marriage procured by means of the active element of a third party is equally immoral, and as such must be condemned out of hand.

6. Only married partners have a mutual right over the body for the generation of a new life; a right that is exclusive, cannot be transferred and is inalienable. It must be so out of consideration for the child.

7. Nature imposes on whosoever gives life to a small being, by virtue of that same bond, the duty of preserving and educating it. But between the legitimate husband and the child who is the fruit of the active element of a third party (even if the husband consents), there does not exist any bond of origin, any moral or juridical bond of conjugal procreation.

8. As to the lawfulness of artificial fecundation in marriage, it is enough, for the moment, to recall the principles of Natural law. The mere fact that the desired result is obtained by this means does not justify the employment of that method. Nor does the desire of married

persons to have a child (a desire in itself entirely legitimate) suffice to prove the legitimacy of having recourse to artificial fecundation for the fulfilment of such desire.

9. It is incorrect to think that the possibility of recourse to this means can render valid a marriage that is debarred by the impediment of impotence.

10. On the other hand, it is superfluous to observe that the active element could never be licitly procured by an act contrary to nature.

11. But though one cannot exclude *a prion* new methods merely because they are new, nevertheless in what concerns artificial fecundation, one must be not only extremely reserved, but it must be entirely rejected. In saying this, the use is not necessarily to be proscribed of such artificial methods as are designed solely to facilitate the natural act, or to procure the fulfilment of the proper purpose of the natural act which has been normally completed.

12. Only the procreation of a new life according to the will and design of the Creator—a matter which is not to be forgotten—carries with it in a wonderful degree of perfection the realization of the proposed ends. It is at the same time in conformity with the bodily and spiritual nature and the dignity of the married, and the normal and happy development of the child.

CHAPTER XXXVII

NULLITY OF MARRIAGE

SECTION 1. The Meaning of Nullity of Marriage

1. The nullity of a marriage between two persons means that their apparent marriage is null and has been null from its inception. The mutual consent which they expressed when they married, even if given in good faith, produced no effect, either juridically or morally, so far as the bond of marriage was concerned.

2. Marriage can be null by virtue of Natural law, as that between father and daughter, or by divine positive law, as a bigamous one, or of ecclesiastical law, as marriage between first cousins, or of civil law, as marriage within certain forbidden degrees, the latter being null legally. Marriages may be valid in English law but null in Canon law, and *vice versa,* a situation which is inevitable, when two discordant systems of law affect the same persons in one and the same matter.

3. If revalidation of a marriage proves impossible, either owing to an impediment which the Church cannot dispense, or which it does not

dispense, or through the refusal of the parties to give or renew the consent, then the sentence of nullity cannot be refused to anyone who justly and legitimately demands it according to the rules of Canon law, on condition that the alleged invalidity is established with moral certainty.[1]

4. Since Catholics may take the benefit of civil law in the matter of divorce or judicial separation for a just reason for the sake of the civil effects, scandal apart, it is not amiss that priests should know what are the grounds on which a marriage can be declared null in Canon law and in English law.

SECTION 2. Grounds of Nullity in Canon Law

The grounds of nullity are the following:

1. Want of true matrimonial consent.

2. Consent which was conditioned by an intention *sine qua non* contrary to the essence of marriage, such as conditions that marriage shall be terminated by divorce, or that the right to normal marital intercourse should not be transferred or accepted, or that a past or present condition, though not contrary to the essence of marriage was laid down but has not been verified.

3. The presence of a diriment impediment between the parties.

4. Defect of due canonical form in celebrating marriage, as would be the case if priest and witnesses were not present when they should have been present.

5. Insanity, want of reason, mistake, grave fear or force, defect of the knowledge of what marriage means.

CHAPTER XXXVIII

NULLITY SUITS

i. The Sacred Congregation of the Sacraments issued an Instruction which was approved by His Holiness, Pope Pius XI, on August 15, 1936, and came into force on December 10, 1936, dealing with the procedure to be adopted in diocesan tribunals when treating of nullity petitions. The Instruction is to be observed as general law.

2. The purpose of the Instruction is to safeguard the stability of marriage and, when possible, to grant freedom to those who rightly

[1] cf. Allocution of Pope Pius XII to the Sacred Rota, Oct. 3, 1941.

challenge their marriage, lest they be condemned to bear the burden of an invalid union.[1]

3. A few points of the Instruction may be quoted which are especially valuable for priests on the missions, who are sometimes confronted with a request to have a marriage declared null. It must, however, be stated that no priest is entitled to decide against what is called a *jVe Tcinere* marriage (one that was clandestine) without reference to the Ordinary.

4. The following points of the Instruction and subsequent clarifications are noteworthy:

(a) A party to a marriage is incapable of challenging it, if he or she was the direct culpable cause of the impediment to, or the nullity of, the marriage. A culpable cause is one who was a direct and fraudulent cause of the situation (P.C.C.J., July 27, 1942).

(ά) One who honestly and licitly gave cause for an impediment is not debarred from challenging his or her marriage.

(c) A party to a marriage who suffered fear or duress unjustly, and in consequence celebrated marriage, is not excluded from challenging it.

(d) One who is debarred from challenging his or her marriage may notify the nullity of the marriage to the Ordinary, or the promoter of justice of the competent tribunal. Non-Catholics, baptized or not, and apostates, cannot be plaintiffs in matrimonial causes without recourse to the Holy See (S.O., Jan. 15, 1940). But a local Ordinary may proceed summarily to declare the marriage of a non-Catholic invalid. This was allowed even before the Code (cf. *Fontes* nn. 1114, 1180, 1251, 1293), and has been endorsed by a private reply to the Bishop of Harrisburg, April 20, 1931.

(«) Where the plea for nullity' was the exclusion of marriage, or of all right to the conjugal act, or of some essential property of marriage, or when a condition was laid down contrary to the essence of marriage, the promoter of justice shall not challenge the marriage, but shall earnestly urge the party or parties to have regard to their consciences, and if possible remove the cause of the impediment, as, for example, by giving a new consent to the marriage in due form. If, however, the alleged nullity has become known publicly, and the party claiming nullity has, in the judgment of the Ordinary, shown true signs of repentance, and if the nullity is based on proofs both in fact and in law entirely probable, then it is the right and duty of the promoter of justice to challenge the said marriage in due legal form.

(J) If nullity of marriage is claimed by one or both parties, and if

[1] A complete commentary on the Instruction, with illustrative cases, has been contributed by Rev. William J. Doheny, entitled *Canonical Procedure in Matrimonial Cases,* to which the present writer, with the kind permission of the author, is greatly indebted. The Latin text of the Instruction may be found in the work cited, and also in the *Acta Apostolicae Sedis,* 1936, pp. 313-361; an English version may be found in the work cited and in Bouscaren, *op. cit.,* II, pp. 471 sqq.

they have been the culpable cause of the impediment to, or the nullity of the marriage, apart from the cases just recorded, the promoter of justice shall not begin the suit unless the following three elements concur, namely: (i) the impediment in the case has become publicly known and is based on proofs, whether in fact or law, so certain and valid, that there can be no serious doubt as to the existence and force of the said impediment: (ii) the public good, namely, the removal of scandal, demands the procedure according to the judgment of the Ordinary: (iii) the marriage cannot be duly contracted even if the impediment ceased to exist.

(g) Certain classes of persons are excluded from taking any part as witnesses in the suit, e.g. children under fourteen years of age, the excommunicated, perjurers, the infamous after sentence passed on them, those of such an evil way of living that they are not worthy of credence, persons publicly and seriously hostile to the petitioners, guardians of the petitioners, judge, assistants, advocates and others who assist or have assisted in the case, priests who have confessional knowledge bearing on the case, even if freed by the parties from the obligation of secrecy, the consort of the petitioner, and with certain limitations, relatives by blood or marriage of the petitioners.

(Λ) If a petition for nullity is filed on the plea of impotence, and if proof of an unconsummated marriage, not of impotence, has been established, then on the petition of one or of both of the parties, the case may be advanced as one for Apostolic dispensation from a ratified, unconsummated marriage; the same procedure is permitted if the plea was other than that of impotence, namely, if the nullity of the marriage cannot be established, but incidentally a very probable doubt has arisen in regard to consummation of the marriage

(t) After two sentences in favour of nullity, and provided that the defender of the bond has not appealed for a stay of execution, the president of the Court must, within ten days, report the result of the proceedings to the Ordinary of the place where the marriage had been celebrated.

(j) The Court must see to it that the judicial expenses are not augmented by unnecessary or useless procedure, that the petitioners are not overburdened by charges for expert help, and that what is customary in the civil courts must be the standard; regard must be paid to the poverty of the parties who fail in a suit. A petitioner, if poor, may be given gratuitous sendee by an advocate appointed by the Court and he may not withdraw from the case without the sanction of the judge. Penalties may be imposed on him for the careless conduct of a case.

(k) A diocesan Court will sometimes require a civil divorce before pronouncing a sentence in favour of nullity.

(/) When there is a positive and insoluble doubt of the validity of a first marriage, a second marriage should be declared invalid if the case is dealt with according to the ordinary course of law (P.C.C.J., June 26, 1947).

Note. Gratuitous Services at Trials Before The Rota

Year		Free service	Year	Cases	Free sendee
1916-21	ii?	48			
1927-3°	207	6	1942	64	35
1929	28	12	1943	95	39
1930	26	9	1944	71	3°
*932	5°	23	1945	82	38
T933	72	28	1946	53	28
*936	75	4*	1947	79	18
*939	50	21	1948	124	35

APPENDIX i

NISI IN ENGLAND AND WALES, AND DECISIONS BY THE ROMAN ROTA

It is interesting to compare the number of divorces and nullities which were favoured by the Roman Rota, with the numbers in England and Wales. The Rota does not issue decrees of either dissolutions or nullities of marriages; it passes judgment on the evidence for or against petitions being made to the Holy Father for a dissolution or a nullity decree.

Decrees Nisi in England and Wales Year		Rota Decisions Divorces	Nullities
1940, over	7,000	3	20
1941			33
1942.	8,000		26
1943.	10,000	5	47
1944. »	14,000	5	32
1945> »	30,000		33
1947>	60,000	8	43
Totals: over	135,000	35	234

APPENDIX 2

MARRIAGE IN ENGLISH LAW

SECTION 1. Requisites for a Valid Marriage[1]

I. Each of the parties should have attained the age of sixteen years (The Age of Marriage Act, 1929).

2. Each of the parties should have the mental capacity to marry.

3. Each of the parties should be outside the prohibited degrees of affinity and consanguinity. The degrees are those annexed to the Book of Common Prayer. But the Act of 1931 (Marriage Prohibited Degrees of Relationships) legalized the following exceptions:

A man may marry

The daughter of his deceased wife's brother;
The daughter of his deceased wife's sister;
The widow of his father's deceased brother;
The widow of his mother's deceased brother;
The sister of his deceased wife's father;
The sister of his deceased wife's mother;
The widow of his brother's deceased son;
The widow of his sister's deceased son.

There exists a canonical impediment in all these cases.

Furthermore, the Act of 1907 allows a man to marry his deceased wife's sister; the Act of 1921 allows a woman to marry her deceased husband's brother. A canonical impediment exists in both these cases.

4. Neither party may be united with someone else if a valid marriage still subsists.

5. Each of the parties should freely consent to marry the other with a proper understanding of the contract.

6. Each party must be capable of marital intercourse.

7. The ceremonies of marriage must be performed in due form.

SECTION 2. Nullity of Marriage

In addition to nullity of marriages owing to a previous marriage still subsisting, consanguinity, lack of due consent and knowledge, mistake, lack of proper ceremony, the following are grounds of annulment: nonage, impotence, non-consummation through wilful refusal of marital intercourse, insanity at the time of marriage, venereal disease

1 cf. Latey and Rees, *Law and Practice in Divorce and Matrimonial Causes,* pp. 9 sqq.

in communicable form at the time of marriage, pregnancy of the woman at the time of marriage by one other than the husband, the fact being unknown to the petitioner. The last four were embodied in the Matrimonial Causes Act, 1937.

SECTION 3. Judicial Separation

A petition for judicial separation may be presented by either the husband or wife on any grounds on which a petition for divorce might be presented, or on the ground of failure to comply with a decree for restitution of conjugal rights, or on any ground on which a decree for divorce *a mensa el taro* might have been pronounced immediately before the commencement of the Matrimonial Gauses Act, 1857, and the foregoing provisions of this Part of the 1937 Act, relating to the duty of the Court on the presentation of a petition for divorce, and the circumstances in which such a petition shall or may be granted or dismissed, shall apply in like manner to a petition for judicial separation. Thus a petition for a judicial separation by either spouse under the Act 1937, may be founded on adultery', cruelty, desertion without cause for at least three years, incurable insanity.

SECTION 4. Grounds for a Petition for Divorce—Act of 1937

By the Matrimonial Causes Act, 1937, a petition for a decree of divorce may be presented by either husband or wife on the ground that the respondent:

(a) has, since the celebration of the marriage, committed adultery; or

(i) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or

(c) has, since the celebration of the marriage, treated the petitioner with cruelty; or

(d) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition; and by the wife on the ground that her husband has, since the celebration of the marriage, been guilty of rape, sodomy or bestiality.1

1 It is to be observed that only a bare statement of the law is here offered. The reader is referred to commentaries on the law, such as the Commentaries of Mr S. Seuffert on the Matrimonial Causes Act, 1937, and Latey's *Law and Practice tn Divorce and Matrimonial Causes,* by Latey and Rees.

THE END

INDEX

Abandonment of religious state, 172
Abduction, 72; as an impediment to marriage, 424
Abortion, 63; and excommunication, 35G
Absolution, on shipboard, 285; in aeroplane, 286; in danger of death, 285; sacramental, 287; form of, 287; manner of giving, 287; of soldiers, 288; of a group, 288; conditional, 288; of the dying, 288; general, 288; of the unconscious, 289; of heretic or schismatic, 290; of the apparently dead, 290; of reserved sins, *vide* Reservation of sins, 302; of accomplice, *vide* Accomplice, in sexual sin, 320; from censure, *vide* Censure, 343
Abstinence, the law of, 124; days of, 124; dispensation from, 125; violation of, 125; exemption from, 125
Accession, a title to ownership, 87
Accidents to the consecrated species, 255
Accomplice, in sexual sin, 320; confession of, 320; absolution of, 320; the law concerning absolution of, 320
Acolyte, 371
Act, human, essentials of, 1; obstacles to, 1; the morally good, 4; determinants of, 5; the indifferent, 6; the purpose of, 6
Action, moral, systems of, 8; internal and civil law, 12; internal and church law, 12; heroic, 12
rXdjuration, 42
Admission to religious life, 154
Adoption as an impediment to marriage, 418, 431
Adulterated goods, sale of, 106
Adultery, Restitution for, 95
Affinity as an impediment to marriage, 428
Age as an impediment to marriage, 421
Agency, contract of, no
Agent in contract, no
Alb for Mass, 244
Aleatory contract, 101
Almsgiving, 34
Altar, kinds of, 233; loss of consecration of, 233; privileged, 234
Amendment, purpose of, 3η; for mortal sins, 3n; for venial sins, 312
Amice, 244
Amputated bodily members, disposal of, 192
Amusements, the, forbidden to clerics, 145
Anaesthesia, 60
Anger, 23
Annual confession, law of, for children, 306
Apostasy, 29
Apostate from religious life, 174
Artificial fecundation, 467
Aspirants to religious life, 155
Assurance, life, 111
Atomic bomb, morality of its use, 58
Auction, 106
Authority of the State, 51
Bail and clerics, 145
Bailee, restitution to, 98
Bailment, 107
Banns, of marriage, 409; obligation of, 409; procedure in publishing, 409; dispensation from, 410
Baptism, the Sacrament of, 200; necessity of, 200; solemn, 200; effects of, 200; kinds of, 200; matter of, 201; method of, 202; form of, 202; minister of, 203; heretical minister of, 203; order of preference in administering, 203; subject of, 204; in normal cases, 204; in abnormal cases, 204; of exposed infants, 205; of children of non-Catholics, 205; of converts, 205; of dying adults, 206; of mental cases, 207; ceremonies of, 207; rite of, 207; name given in, 208; sponsors at, 208; time and place of, 209; record and proof of, 211; into the Catholic Church, 423
Barristers, the duties of, 183
Bell, the, for Mass, 241
Bestiality, 72
Betrothal, 401; character of, 401; canonical form of, 402; void and voidable, 402; conditional, 402; effects of, 403; dissolution of, 403; disclosure of defects before, 404; with apostate, 420; with an excommunicate, 420
Betrothed, the, mutual relations between, 405

INDEX

Biographies, 119
Blasphemy, 42
Blessings, loss of, 246
Body, the, ownership of, 84
Bond, existing, as an impediment to marriage, 422
Borrower, the, restitution to, 98
Books, censorship of, 126; prohibition of, 129; denunciation of evil, 129
Bookseller and forbidden books, 132
Burial, ecclesiastical, 187

Calumny, 115
Candle, paschal, 237
Candles lit at Mass, 237
Canons of the Code, not retroactive, 4'7
Canopy of altar, 235; of tabernacle, 240
Carcinoma of the «nix, 60
Cards for Mass, 238
Casuistry, xxxi
Celebration of Mass, obligation of, 222; defects in, *vide* Defects in celebrating Mass, 250
Celibacy of clerics, 138
Censors of books, diocesan, 128
Censorship of books, 126; reasons for, 126; law of, 126; and clerics, 127; and Religious, 127
Censure, nature of, 335; kinds of, 335; author of, 336; subject of, 336; excuses from, 340; reservation of, 341; absolution from, in general, 342; in danger of death, 343; outside danger of death, 344; in urgent cases, 344
Chalice for Mass, 243
Charity, divine, 32; motives of, 33; fraternal, order of, 34; external act of, 34
Chastity, and modesty, 70; sins against, unconsummated, 72; consummated, 72; of clerics, 139; religious vow of, 164
Chasuble, for Mass, 245; material of, 245; ornamentation of, 245; colour of,

Children, duties of, 47; reception of Holy Communion by, 269; dying, and the Sacraments, 269; and annual confession, 307
Choir, duty of, for Religious, 170
Christmas midnight Mass, 231
Church, the, ownership by, 85; precepts of, 120; support of pastors of, 120; laws of, 120; of fasting and abstinence, 121
Ciborium, 243
Circumstances of the human act, 5

Civil marriage and divorce, 464
Clerical State, the, 134
Clerics, ownership by, 85; in general, «34j rights of, 136; privileges of, 136; obligations of, 137; religious duties of, 137; obedience of, 138; studies of, 138; celibacy of, 138; chastity of, 139; recital of divine office by, 141; dress of, 144; occupations and amusements forbidden to, 145; and bail, 145; and gaming, 145; and hunting, 145; entering taverns, 146; medical and surgical practice by, 146; and legal occupations, 146; and legislative activity, 146; and shows, 147; and military sendee, 147; and trading by, 147; and investments by, 148; and residence, 149
Cloths of the altar table, 235
Code, a hospital, 185; of canon law, not retroactive, 417
Codicil, 104
Co-education, 48
Cohabitation of the married, duty of, 460; breach of, 460
Commandments of God, first, 37; second, 42; third, 45; fourth, 47; fifth, 54; sixth, 70; seventh and tenth, 83; ninth, 70
Commodatum, 107
Common error, jurisdiction in, 286
Commixture, 87
Communion, Holy, *vide* Holy Communion, 264

Compensation, occult, go; conditions for, 9°
Compensationism, 9
Complacency in evil, 21
Concupiscence, 2; antecedent, 2; consequent, 2; directly excited, 2; resistance to, 2
Conditions in contract, 102; in marriage, 444
Conferences, interdenominational, 29
Confession, of male Religious, 282; of female Religious, 283; certificate of, 300; obligation of, 306; annual, 307; matter of, 307; doubtful matter of, 307; of converts, 307; generic, 308; frequent, 308; by interpreter, 308; written, 308; qualities of, 312; complete, 313; integrity of, formal and material, 313; of doubtful sins, 314; of external sins, 314; of effects of sin, 314; excuses from material integrity, 315; of forgotten sins, 316; necessary repetition of, 316; general, 317; place °f> 3r9i times for hearing, 31g; vestments for, 31g; of an accomplice, *vide* Accomplice, 320

Confessor, when not available, 270; duties of, 292; as spiritual father, 292; as judge and physician, 293; questioning by, 294; giving or refusing absolution, 295; correcting errors, 296; and obligation of hearing confessions, 302
Confirmation, the Sacrament of, 212; effects of, 212; matter of, 212; form of, 212; minister, ordinary and extraordinary of, 213; by a priest, 213; subject of, 215; valid and lawful, 215; reception of, 215; sponsors at, 216; record and proof of, 217
Consanguinity as an impediment to marriage, 426
Conscience, nature of, 7; kinds of, 7; examination of, 309
Consecrated species, accidents to, 255
Consent, matrimonial, 442; qualities of, 442; obstacles to, 442; manner of expressing, 444; conditional, 444
Consideration in contracts, 102
Conspiracy in injustice, 97
Contact of sacred things, 246
Contract, kinds of, joo; capacity of making, 101; mistake in, 101; misrepresentation in, 101; fraud in, 102; duress in, 102; undue influence in, 102; consideration in, 102; effects of, 102; conditional, 102; termination of, 102
Contrition, act of, 309; nature of, 309; necessity of, 310; perfect, 310; imperfect, 310; for mortal sin, 310; for venial sin, 311; relation of, to confession, 311
Contumely, 117
Convert, confession of, 307
Cooperation, with non-Catholics, 29; in sin, 36; formal and material, 36; in injustice, 96
Corporal for Mass, 244
Correction, fraternal, 35
Covetousness, 22
Craniotomy, 65
Cremation, 192
Crime as an impediment to marriage, 425
Crucifix for Mass, 236
Cruets for Mass, 241
Curettage, 66
Cursing, 42

Damage, unjust, a ground for reparation, 89
Damages for breach of contract, 102
Dances, and clerics, Γ47
Dead, the good name of the, 119
Deadly sins, 22
Defamation, reparation for, 94
Defects in celebrating Mass, 250; in the bread, 250; in the wine, 251; in consecrating, 252; in the form, 252; of intention, 253; in dispositions of soul and body, 254; in the ministry, 2«
Defence of self, 56; of others, 56
Defendants, duties of, 182
Delinquency, 338; nature of, 338; kinds oG 33?; imputability of, 338; coopération in, 339; attempted, 339; frustrated, 340
Deposit of chattels, 107
Desire as sin, 21
Determinants of the moral act, 4
Detraction, reparation for, 115
Devil, the invocation of, 39
Diaconate, the, matter and form of, 372
Difference of worship, as an impediment to marriage, 423
Dishonour, reparation of, 117
Dispensation from law, 16; author of, 16; papal, 17; by local Ordinary, 17; by parish priest, 17; by religious Superior, 17; by confessor, 17; reasons for seeking, 17; cessation of, 18
Dispensations from matrimonial impediments, 431; in general, 431; in the external forum, 431; in die internal forum, 431; forms of, 431; papal, 432; by local Ordinary, 433; by parish priest, 435; by confessor, 436; by assistant priest, 436; registration of, 437; delegated power of granting, 437; implicit, 439; reasons, canonical, for, 439; petition for, 440; mistakes in the petition, 441
Dissolution of marriage, *vide* Marriage, 457
Divination, 39
Divine law, 11
Divine office, *vide* Office, the divine,
Divorce, in ecclesiastical law, 457; civil, 464; decrees nisi in England and Wales, 472; Rota decisions, 472; grounds for, in English law, 474
Doctor, the, duties of, 184
Domicile, 15
Doorkeeper, 370
Dowry* of certain Religious, 156
Drunkenness, 22
Duel, the, 57
Dying, the, absolution of, 288; of heretics and schismatics, 289

Earnest money, in contract, 102
Ecclesiastical burial, 187; denial of,

Eelamfrsia, 60
Ectopic gestation, 64
Effect, the double, 3
Embalming, 67
Employer, and employee, 49
Enclosure, religious, 166; nature of, t66; papal, 166; law of, 167; of monastic nuns, 167; safeguards of, 169; of religious congregations, 169
Envy, 23
Epieikeia, 13
Equiprobabilism, 8
Error, common, jurisdiction in, 286
Eucharist, the Holy, 218; Sacrifice and Sacrament, 218; matter of, 225; form of, 226; consecration of, 227; presence of Christ in, 229; minister of, 264; reservation of, 265; subject of, 268; duty of receiving, 275
Euthanasia, 63
Exclaustration, 173
Excommunication, nature of, 346
Excommunications most specially reserved to the Holy See: absolution of accomplice, 348; direct violation of the seal of confession, 348; attack on the person of the Pope, 348; profanation of the consecrated species, 349; violation of the laws of papal election, 349; sacrilegious concubinage of a priest, 349
Excommunications specially reserved to the Holy See; apostasy, heresy and schism, 349; suspicion of heresy, 349; publishing, reading, keeping certain classes of books, 350; simulated celebration of Mass, or hearing confessions without Sacred Orders, 350; appeal to a General Council, 350; impeding apostolic letters or acts, 350; legislation against the Church, 351; citation of Cardinals, etc., to lay tribunal, 351 ; violation of the immunity of Cardinals, etc., 351; usurpation or detention of property or rights of the Church, 351 ; fabrication of certain documents, 351 ; false accusation of a confessor of solicitation, 351 ; trading by clerics, 352
Excommunications simply reserved to the Holy See: trafficking in indulgences, 352 ; aggregations to impious sects, 352 ; absolving from censures without faculty 352 ; showing favour to certain excommunicates, 353; citation before lay tribunal of Bishop, Prelate, etc., 353; violation of enclosure, 353; usurpation and conversion of ecclesiastical property, 353; duelling, 354; attempted marriage by or with clerics in Sacred Orders, or a Religious of solemn vow of chastity, 354; simony, 354; tampering with certain documents, 354
Excommunications reserved to the Ordinary: marriage in presence of a non-Catholic minister acting as such, 355; agreement to educate offspring outside the Church, 355; baptism of offspring by non-Catholic minister, 355» non-Catholic education of offspring or wards, 355; making or selling false relics, 355; violation of personal unity of clerics or Religious, 355; abortion, 356; apostasy from a religious Institute, 356; civil marriage by or with a Religious of simple vows, 357
Excommunications not reserved: writing or publishing books of Sacred Scripture, or notes, or commentaries on them without permission, 357; giving illegitimate Christian burial, 357; alienation of church property, 358; failure to denounce solicitation by a confessor, 358; compelling another to enter the clerical or the religious state, 358
Exorcist, 371
Extreme Unction, 365; the Sacrament of, 365; dfects of, 365; matter of, 365; form in general, 366; form in danger of death, 366; given to several on one occasion, 366; minister of, 366; valid administration, 366; lawfiil administration, 366; obligation to administer, 367; subject of, 367; repetition of, 368; conditional, 368; necessity of, 36g; rite and ceremonies of, 369

Faith, divine, nature of, 28; obligation of, 28; necessity of, 28; content of, 28; sins against, 29
Fast, the eucharistie, obligation of, 272; violation of, 273; doubtful violation of, 273
Fasting, the ecclesiastical law of, 121; subject of, 122; dispensation from, 122; violation of, 123; excuses from, 123
Favour of the law, 459
Fear, 2; grave and slight, 2; and imputability, 2
Fecundation, artificial, 467
Feticide, 65
Fibromyomata, 60
Finding of another's property, 86
Flowers on the altar, 236
Font, baptismal, cleansing of, 201

INDEX

Forbidden books, *vide* Prohibition of books, 129; classes of, 130; dispensation for reading, 132; exemptions for reading, 132; penalties for reading, 133
Force, as coercion, 2; absolute, 3
Fornication, 71
Fortitude, 26
Fragments of the Mass host, accidents to, 228
Fugitive from religious life, 357
Futures, 113

Gaming and wagering, 112
Gift, 103
Girdle for Mass, 245
God, the love for, 32; necessity of, 33; motive of, 33; sins against, 33; tempting, 40
Gluttony, 22
Gregorian Masses, 264, 329
Group, absolution of a, 288

Heir, restitution to, 98
Heresy, formal, material, 29
Heroic acts, 12
Hire and purchase, 106
Historical writings, 119
Holy Communion, administration of, 264; mode of administration of, 264; rite of, 265; to the sick, 267; to children, 269; dispositions of soul for, 270; frequent, 271; daily, 271; disposition of body for, 272; non-fasting, 273; circumstances regarding, 274; duty of receiving, 275; time and place for administering, 277; manner of administering, 278
Holy Orders, in general, 370; the Sacrament of, 370; matter and form of, 370; cases on, previous to 1947, 371; minister of, 376; bishop of, for secular clergy, 377; for Religious, 379; dimissorial letters for, 378; subject of, 380; prerequisites for, 381; licit, 381; ages for, 382; intervals between the several Orders, 382; canonical titles for, 382; irregularities in, 383; impediments to, 385; dispensations from irregularities and impediments, 386; petition for dispensation, 386; preliminaries to reception of, 387; reception of, 389; time and place for reception of, 390; notification and record of, 390
Holy Thursday, Mass on, 230
Holy Saturday, Mass on, 230
Hope, act of, 32; necessity of, 32; sins against, 32
Hospital Code, 185
Host, consecrated, accidents to, 255
Human acts, *vide* Acts, 1
Hunger strike, the morality of, 55
Hunting and clerics, 145
Husband and wife, duties of, 48
Hydramnios, 59
Hypnotism, 40
Hyperemesis gravidarum, 60

Idolatry, 38
Indulgences, nature of, 323; kinds of, 323; plenary, 323; personal, 323; mixed, 323; local, 323; perpetual, 323; application of, 323; jubilee, 324; clauses in grant of, 324; conditions for getting, 324; fulfilment of the works, 325; application to the Holy Souls, 325; Holy Communion for, 325; confession for, 325; visit to a church for, 325; prayers for, 326; commutation of works, 326; annexed to articles, 327; cessation of, 327; of the papal blessing, 327; apostolic, 328; of privileged altar, 328; of priest's first Mass, 328; of first Holy Communion, 328; at the hour of death, 329; *loties quoties,* 329; on All Souls Day, 329; Portiuncula, 330; of Stations of the Cross, 330; of Rosary of B.V.M., 331; of the scapular, 332; of the scapular medal, 333; of a crucifix, 334; of the divine office, 334
Ignorance, 1; invincible and vincible, 1; crass and supine, 1; studied, 1
Immodesty, external acts of, 72; classification of, 72; moral import of, 73; motive of, 73; as cause of sexual excitement, 74; in touches, 75; in kissing and embraces, 75; in looks, 76; in conversation, 77; in reading, 77
Impediments, matrimonial, 413; nature of, 413; kinds of, 413; ignorance of, 414; cessation of, 414; doubtful, 415; actual, in summary, 416; minor and major, 417; retrospective, 417; prohibitory, 417; of vow, 417; of vow of virginity, 417; of vow of chastity, 418; of vow of celibacy, 418; of vow of taking Sacred Orders, 418; of vow of entering religious Institute, 418; of adoption, 418; of mixed religion, 418; diriment, 421; of age, 421; of impotence, 421; of existing bond, 422; of difference of worship, 423; of Sacred Orders, 424; of religious profession, 424; of abduction, 424; of crime, 425; of consanguinity, 426; of affinity, 428; of public propriety, 429; of spiritual relationship, 430;

of legal adoption, 431 ; dispensation from, *vide* Dispensation from matrimonial impediments, 431
Impotence as an impediment to marriage, 421
Impurity or unchastity, 71
Imputability of acts, 1
Incense, 24a
Incest, 71
Indissolubility of marriage, 394
Infidelity, 29
Injury, physical, reparation for, 94
Injustice, in general, 83; sexual, reparation for, 95; by counsel, 96; by command, 96; by consent, 96:; by defendpraise, 97; by participation, 97; by cooperation, 97
Insemination, artifidal, 467
Institutes, secular, of Christian Perfection, 178
Insurance, in
Interdenominational conferences, 29
Interdict, nature of, 358; kinds of, 359; effects of, 359
Interest on loans, titles to, 105
Internal acts, 21
Investments by derics, 148
Irradiation by X-rays, 66

Judges, duties of, 17g
Judgment, rash, 117
Jurisdiction, 11 ; for confessions, ordinary, 280; subject of, 280; delegated, 281; for confessions of Rdigious, male or female, 282-3 ; concession of, 284; given by general law, 284; in danger of death, 285; on a sea voyage, 285; in aeroplane, 286; in common error, 286; revocation of, 286; suspension of, 286; extension of, 286; limitation of, *vide* Reservation of sins, 302
Jurists, papal allocution to, 181
Jurymen, duties of, 181
Jus ad rem, jus in re, 84
Justice, 83; commutative, distributive, legal, 83

Killing, direct and indirect, 56
Knock-out in auctions, 106
Knowledge, sacramental, use of, 299

Lamp, the sanctuary, 238
Last Will, definition of, 104; incapacity
---° J. . ’’ i l , «
of, 11 ; divine, 11 ; ecclesiastical,
municipal, international, human, it; obligation of, 12; interpretation of, 12; fulfilment of, 13; excuses from fulfilling, 14; cessation of, 16; dispensation from, *vide* Dispensation from law, 16
Lay persons, duties of, 179; judges, 179; jurymen, 181; plaintitf, 182; defendant, 182; witness, 183; barrister, 183; doctor, 184 ; surgeon, 184
Legacy, 104; specific, 104
Legal occupations and derics, 146
Legislative activity and clerics, 146
Leukotomy, 67
Lie, the, 114
Life, preservation of, 55 ; ownership of, 55
Loan, for consumption, 104; for use, 107
Lock-out, 51
Love, divine, *vide* God, 32; fraternal, 33 ; sins against, 35
Lunette, the, 243
Lust, 22

Magic, 39
Maniple, the, 245
Marriage, 392; in general, 392; state of, 392; purposes of, 393; properties of, essential, 394; unity of, 394; indissolubility of, 394; benefits of, 395; kinds of, 396; Christian, a sacrament, 397; jurisdiction of the Church over, 399; subject of the Church’s laws of, 400; jurisdiction of the State over, 400; of the unbaptized, 401 ; preparation for, 405; preliminaries to, 406; freedom for, 406; inquiries before, 406; banns, 409; obligation of revealing impediments to, 410; doubts as to impediments to, 411; instructions before, 412 ; minors, warning of, before, 412; impediments to, *vide* Impediments, matrimonial, 413; consent to, *vide* Consent, matrimonial, 442 ; by proxy’, 444; canonical form of, 445; subjects of the form of, 446; valid assistance at, 447; valid delegation to assist at, 448; lawful assistance at, 448; rite and blessing of, 449; mixed, celebration of, 450; registration of, 450 ; of conscience, 451 ; effects of, 453 ; rights of, 453; time and place of celebration of, 452; dissolution of, 457; rectification of invalid, *vide* Rectification of invalid marriage, 461; civil, 464; divorce of, dvil, 465; use of, *vide* Use of marriage, 465; nullity of, *vide* Nullity of marriage, 468; in English law, 473

Marriage act and Holy Communion, 274
Mass, hearing of, 45; presence at, 45; place for, 45; intention in hearing, 45> Parts omitted, 4G; excuses from hearing, 46
Mass, die sacrifice of, 218; by whom offered, 218; defect in matter of, 219; fruits of, 219; efficacy of, 220; application of, 220; for whom offered, 221 ; celebration of, 222 ; visiting priests, 222 ; frequency of celebration, 222; the bination of, 223; dispositions of soul for celebration, 223 ; fast before celebrating, 223; preparation for, 224; thanksgiving after, 224; dress for celebrating, 224; assistant priest at, 224; server at, 224; bread and wine for, 225; host for, 226; water mixed with the wine, 226; form of consecration, 226; conditions of consecration, 227; days of celebration of, 230; on Holy Thursday, 230; on Holy Saturday, 230; time of celebration, 230; Christmas midnight, 231; place of celebration, 231; requisites for celebration, 233; on shipboard, 232; blessing of requisites for, 242; rubrics of, 247; additions to, 247; omissions in, 247; discontinued, 248; interrupted, 248; distractions during, 248; tone of voice in celebrating, 248; duration of, 249; calendar for, 24g; defects in celebrating, 250; obligation of celebrating, 257; for the people, 257; stipend for, *vide* Stipends, 258
Masses, Gregorian, 264, 329
Medical practice, by clerics, 146
Medico-moral problems: operations during pregnancy, 58; *hydramnios,* 59; *placenta praevia,* 59; *fibromyomata,* 60; *carcinoma* of the *cervix,* 60; *hyperemesis gravidarum,* 60; *eclampsia,* 60; anaesthesia, 60; twilight sleep, 60; premature delivery', 61; sterilisation, 61; abortion, 63; ectopic gestation, 64; craniotomy, 65; feticide, 65; curettage, 66; irradiation by X-rays, 66; monsters, human, 67; embalming, 67; leukotomy, 67; shock therapy, 68; topectomy, 68; narcotherapy, 68; Caesarean section, 68; post mortem section, 69
Mental restriction, 115
Midnight, computation of, 272
Military service, and clerics, 147; evasion of, reparation for, 95
Minister of the Sacraments, 195; valid action of, 195; licit action of, 196
Minors, property of, 85
Missa dialogata, 246
Missal, 238; stand of, 238
Mixed religion as an impediment to marriage, 418
Model, nude, 76
Modesty and chastity, 70
Monopoly, 108
Monstrance, the, 243
Moral theology, scope of, xxxi; subject of, xxxi; sources of, xxxi; legalistic, xxxi; the science of moral conduct, xxxi
Music, 249
Mutilation, 56
Mutuum, 104

Narcotherapy, 68
Necessity, extreme, and taking another's goods in, 90
Neighbour, love of, 33; need of, 34
Neuroses, 3
Novice, the religious, 154; valid and lawful admission to religion of, 154-5; training of, 157; certain prescriptions, for, 158
Nullity of marriage, 468; grounds of, 469; suits for, 469; Rota decisions on, 472; in English law, 473
Nuns, enclosure of, 166

Oath, 42; before taking Sacred Orders,

Obedience, religious vow of, 164
Object of human act, 5; forbidden, 5; intrinsically evil, 5; enjoined, 5
Obstacles to free acts, 1
Occult compensation, go; conditions for, 9°
Occupancy, a title to ownership, 86
Occupations, forbidden to clerics, *vide* Clerics, 145
Office, the divine, 141 ; recitation of, 141 ; manner of recitation of, 141; orderly recitation of, 142; causes excusing from, 143; prayerful recitation of, 143; kind of, 144
Offspring, duties to, 454; legitimacy of, 455; illegitimate, 455; presumed legitimacy of, 455; legitimation of, 455
Oil of Extreme Unction, 365
Operations during pregnancy, 58
Orders, Sacred, *vide* Holy Orders, 370
Organic transplantation, 68
Owner, one of many, restitution to, 98; one of few, restitution to, 98
Ownership, object of, 84; subject of, 84; of societies, 85; of minors, 85; of the Church, 85; of clerics, 85; of wife, 85; titles to, 86

INDEX

Pall for Mass, 243
Papal allocution to jurists. 181; to

Parents, duties of, 47
Partnership in contract, no
Paschal candle, 237
Passion, *vide* Concupiscence, 2
Passivity under concupiscence, 2
Paten for Mass, 243
Pauline privilege, 457
Penance, Sacrament of, 280; minister of. 280; jurisdiction for, 280; cessation of jurisdiction for, 282; limitation of jurisdiction for, 281-2; sacramental satisfaction, 290; acceptance of, 290; fulfilment of, 291; quality of, 291
Penitent, the, doubtful sincerity· of, 295
Perversions, sexual, 78
Placenta praevia, 59
Plaintiff, the duties of, 182
Plate, the Holy Communion, 242
Pollution, sexual, 72
Portiuncula indulgence, 330
Possessor, in good faith, bad faith, doubtful faith, 91; obligations of, 91
Postulant, religious, 153; testimonials for, 155
Poverty, the religious vow of, 162; violation of, 162
Predella of altar, 241
Premature delivery of infant, 61
Prescription, legal, 87
Presence, mutual, of confessor penitent, 287
Price, 105; the just, 105
Pride, 22
Priesthood, the, matter and form of, 37θ
Principal in contract, no
Probabiliorism, 9
Probabilism, 9; use of, in the Sacraments, 8
Profanity, 42
Profession, religious, *vide* Religious, 159
Prohibition of certain books, *vide* Forbidden books, 130
Promise, 103
Property·, renunciation of, by Religious, 166
Prudence, 26
Pupil, duties of, 51
Purificator for Mass, 244
Purpose, the divine, in creating, xxxi; ultimate, of man, xxxi
Pyx for the Blessed Sacrament, 243

Quasi-domicile, 15
Questioning by confessor, 294

Radioaesthesia, 39
Rail, the Holy Communion, 242
Rape, 71
Rapine, 88
Rationing, the abuse of, 96
Reader, as minor Order, 370
Recourse for absolution to Superior, 304
Rectification, ot invalid marriage, 461; in general, 461; by simple convalidation, 462; by *sanatio in radice,* 463
Relatives, family, duties of, 48
Relics on the altar, 236
Religious state, the, 150; canonical definitions, 151; government in, 152; spiritual care of its members, 158; obligations of, 161; privileges of, 170
Remarriage, 464
Reparation, of injustice, conditions for, 92; of spiritual harm, 94; of defamation and dishonour, 94; of physical injury, 94; of sexual offence, 95; of adultery, 95; of evasion of military service, 95; of evasion of taxes, 95; of abuse of rationing, 96
Reputation, good, ownership of, 84
Reservation, of sin, 302; purpose of the, 303; with or without censure, 303; author of, 303; subject of, 304; ignorance of, 304; cessation of, 304; absolution of, 305; of censure, *vide* Censures, 342
Residence of clerics, 149
Restitution, in general, gi ; obligation of, 91; grounds of, 91; amount of, 97; for unjust cooperator, 97; to whom to be made, 98; to bailee, 98; to borrower, 98; order of making, 99; manner of making, 99; time for making, 99; place of making, 99; excuses from making, 100
Restriction, mental, 115
Ring in auction, 106
Rota decisions, on divorce, 472; on nullity of marriage, 472

Sacraments, the, in general, 193; number of, 193; rite of, 193; matter of, 193; form of, 193; intention in, 193; difference between, 194; of the dead, 194; of the living, 194; repetition of, 195; minister of, 195; obligation of giving, 196; obligation of refusing, 197; pretence of giving, 197; valid reception of, 198; licit reception of, 199
Sacred Orders, *vide* Holy Orders, 370; as an impediment to marriage, 424
Sacrilege, 41
Sale, of goods, 105; as contract, 105; of adulterated goods, 106

Scandal, 35; active, 35; passive, 35; Pharisaical, 35; direct, 35; indirect, 35; diabolical, 35
Seal, the sacramental, 297; nature of, 297; content of, 297; obligation of, 297; direct violation of, 298; indirect violation of, 298; probable violation 299; canonical penalties for violation of, 300
Secret, violation of, 117; kinds of, 117
Self, love of, 33; defence of, 56
Separation of the married, 460; in English law, 474
Sepulchre of altar, 233
Servants, duties of, 109
Server of Mass, 224
Servile work, 46; nature of, 46; excuses for, 46
Service, military, evaded, restitution for, 95.
Services of advocate, gratuitous, in Rota cases, 472
Sex, acts not contrary to generation, 71; sacrilegious, 71; contrary to generation, 72; education, 79
Shock therapy, 68
Shows, spectacular, and clerics, 147
Sin, nature of, 19; mortal, ig; venial, 19; change in character of, 20
Sins, distinction between, 20; specific distinction of, 20; numerical distinction in, 20; internal, 21; deadly, 22; remedies for, 293; reserved, *aide* Reservation of, 302
Slavery, 84
Sleep, twilight, 60
Sloth, 24
Societies, ownership by, 85
Sodomy, 72
Soldiers, collective absolution of, 288; mobilised, absolution of, 288
Solicitation to sin against the sixth commandment, by confessor, 321; law concerning, 321; false accusation of, 321; circumstances of, 321; denunciation of confessor for, 321
Species, the consecrated, accidents to, 256, 279
Specification, a title to ownership, 87
Spiritual harm, reparation for, 94
Spiritualism, 39
State, the authority of, 51; restitution to the, 98
Statues on altar, 236
Sterilization, 61; punitive, 62; therapeutic, 62; eugenic, 62
Stipends for Mass, 258; kinds of, 259; rules regarding, 259; retention of part of, 262; trafficking in, 263
Stole for Mass, 244
Strike, of employed, kinds of, 50; morality of, 50; hunger, 55
Subdiaconate, the, 371
Suicide, 55
Superstition, 38
Surgeon, the, duties of, 184
Surgery and clerics, 146
Suspension, as canonical penalty, 361; kinds of, 361; *ex informata conscientia,* 362; reserved to the Ordinary, 363; not reserved, 363

Tabernacle, the, 238; key of, 239; canopy of, 240
Faking of goods of others in extreme necessity, go; as occult compensation, 90
Taverns, entering, by clerics, 146
Taxes, evasion of, 95
Teacher, duties of, 51
Temperance, 26
Tempting God, 40
Tenants, in
Theatre and clerics, 147
Theft, 88; absolute sum of, 89; relative sums in, 89; petty, sins of, 89; coalescence of repeated, 89
Throne, of Exposition of the Blessed Sacrament, 241
Time, computation of, 13
Tonsure, first, 370
Topectomy, 68
Trading, by clerics, 147; penalty for, 352
Twilight sleep, 60

Vain observance, 38
Viaticum, Holy, obligation of receiving, 276; given to dying child, 276; rite of, 278
Virtue, kinds of, 25; natural, 25; supernatural, 25; cardinal, 26; theological, 28
Vocation, to clerical life, 135; to religious life, 153
Vomit of the sacred species, 257
Vow, 43; kinds of, 43; conditions of, 43; obligation of, 43; cessation of, 44; annulment of, 44; dispensation from, 44; author of dispensation, 44; reserved to the Holy See, 44; commutation of, 44; simple and solemn, 15g; as an impediment to marriage, 417, 424

Wage, the just, 50
Wagering, 112
War, the just, 58

Water, for bapti 201 ; added to wine in Mass, 226
Wife, and husband, 48; ownership property by, 8$
Will, last, 104; witnesses to, 104, penon, incapable of making, l<>4
Wine, for Mass, 251; frozen, 226, 256
Witnesses in Court, duties of, 183
Woman server at Mass, 225
Work, servile, 46; nature of, 46; excuses